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ACCOMPLISHMENTS OF THE 100TH CONGRESS

WITH SOURCE DOCUMENTS IN NATIONAL SECURITY AND FOREIGN POLICY

REPORT

BY THE

SENATE DEMOCRATIC POLICY COMMITTEE

October 19, 1988—Ordered to be printed

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S. Res. 505

In the Senate of the United States,

October 19 (legislative day, October 18), 1988.

Resolved, That there shall be printed as a Senate document "Accomplishments of the 100th Congress—Report by the Senate Democratic Policy Committee", and that an additional 500 copies be printed for distribution to the Members of the Senate as an official document.

Attest:

Walter J. Stewart

Secretary.

FOREWORD

JANUARY 23, 1988.

This document is intended to supplement the annual summary of accomplishments of the Congress produced by the Democratic Policy Committee at the conclusion of each Congress. The 100th Congress was unusually active in the broad fields of foreign and national security policies, approving the first major nuclear arms control treaty in 18 years, the most comprehensive trade bill in decades, and setting policy standards and guidelines in a wide variety of situations, from Central America to the Persian Gulf. In addition, a number of important new Senate institutions were created or expanded during the 100th Congress, including special Senate groups in the fields of arms control and regional foreign policies.

As a supplement to my remarks delivered on the Senate floor on October 18, 1988, this document includes in its appendices a number of important full texts of language adopted by either the Senate or by both chambers and which should be either of continuing value to scholars or practitioners in the fields of arms control, foreign and national security policies, such as the full text of the understanding, declarations and conditions attached to the resolution of ratification of the INF Treaty, or of immediate importance during the 101st Congress, such as the extensive amendment which today controls the nation's policy toward Nicaragua. It therefore pulls together in one place the full texts of Congressional institutional creation and decisions on many of the important international issues which were the subject of substantial Senate attention and energy over the course of the 100th Congress.

ROBERT C. BYRD,
President pro tempore.

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THE 100TH CONGRESS—A CONGRESS OF ACHIEVEMENT

Mr. **Byrd**. Mr. President, 2 years ago, the American people put Democrats back in control of the Senate. We told the American people that we had the experience and the record and the agenda. So they gave us our chance to prove it—that we had the experience, the record, and the agenda.

The agenda was a brief one: lower the budget deficits, create a new trade policy for America, check and balance a White House that seems to have lost its way, and make progress on arms control. I believe we have delivered on our promises and that we have done more. The record of the 100th Congress has been one of decisive action. We have produced results across the board.

We created a new national trade policy, brought about the first reform of our welfare system in 50 years, and gave our advice and consent to the historic INF Treaty. We rejected the administration's persistent efforts to move to the right of the American mainstream—to undermine the constitutional principle that the Congress is a coequal partner.

Again and again, from the arms-for-hostages investigation to the rejection of Robert Bork's nomination, the Congress was called on to check and balance the Executive. Democrats, joined by some of our colleagues on the other side of the aisle, refused to yield to Presidential vetoes of important and needed legislation. The clean water bill, the highway bill, the trade bill, the plant closing legislation, and the civil rights restoration bill are all proof that the Congress has been more in tune with the American people than has the White House.

DOMESTIC POLICY

The 100th Congress has been a "family" Congress. We tackled the problems that people talk about when they sit around the kitchen table. We expanded the Medicare Program for the first time since 1965 to include landmark catastrophic health insurance. We have placed great value on the education of our children. We have increased funding for elementary and secondary education, and we have rejected every attempt by the White House to cut student aid and funding for drug free schools.

Congress has reached out to help the small family farmer through tough times. We reformed the loan requirements of the Farmers Home Administration. We moved quickly to provide drought assistance to farmers in the wake of this summer's devastating heat wave. Further, we put teeth in the fair housing legislation for the first time in 20 years and gave better protection to families with children and the handicapped. And additional aid to the homeless became the law of the land.

We have not met with success on all family issues, unfortunately. Filibusters from the other side of the aisle stopped legislation to raise the minimum wage, require employers to provide unpaid parental leave, and provide greater availability of child care facilities. I regret this because it is America's families that are the ones that lose.

But that does not diminish the other significant accomplishments of this Congress.

Mr. President, the 100th Congress can be proud of its achievements. This Congress has made notable progress in a number of areas that are crucial to America's future, especially to renewing the strength of America's families. Our successes this year are testament to the vision, hard work, and perseverance with which the committees, the leadership, and all Senators approached their responsibilities. Let me review some of the more important achievements of the 100th Congress.

American workers and jobs were at the heart of many of the measures enacted by this Congress. One of the most important was the bill that required employers to provide workers with 60 days' notice of a plant closing or mass layoff. That was simply fair play for employees. The administration opposed that measure, even vetoing the trade bill, ostensibly because it included the plant closing notification provision. But Congress stuck to its guns, and the President ultimately let the plant closing bill become law, although without his signature. That law was a triumph not only for this Congress, but also for the American worker's family.

The polygraph protection bill that was signed into law last June added important protections for employees from the indiscriminate use of lie detector tests.

The American family has also benefited greatly from a catastrophic health insurance program to protect elderly persons and their families from the nightmare of financial ruin because of catastrophic medical expenses. That program will put many families at ease that they and their children will not be bankrupted by the illness of an elderly parent or relative.

Similarly, the welfare reform bill that became law some few weeks ago will significantly aid those families, especially one-parent families, that are currently on welfare and need the support this bill will provide to make the transition from the welfare rolls to the payrolls. This reform bill marks the most significant change in the welfare system since its inception, and the Congress can be justifiably proud of its accomplishment. In particular, I thank Senator Moynihan for the outstanding work he did in bringing this bill to enactment.

Those families that are living at or near the poverty line will also benefit from the child nutrition legislation that became law in August. The bill would expand several current nutrition programs as well as emergency feeding programs and better target the assistance to the homeless and those most in need. These are the families that are often most in need of help to make it through each day.

Mr. President, more and more families are being struck with a member who has become infected with the AIDS virus. As we know, it is fatal to those with the disease. But it is also devastating for the family and all involved in the tragedy. Last spring, the Senate passed an AIDS research and information bill that provides significant additional resources to combat this disease in the form of research, training, and treatment. It also provides new resources to increase education and prevention activities so that the scourge of this illness can be minimized while the search for a cure goes on. The bill was sent to the President just a few days ago.

Farm families will also get some relief from the squeeze that has been making their life harder for the past 7 years. Just as many farmers were beginning to climb out of the depths of the worst recession in the farm belt since the 1930's, they were hit by the devastating drought. Even before the extent of the devastation was known, Senators on both sides of the aisle were working on a drought relief package. That bill, which kept within the budget, was enacted into law in August, and farmers are already receiving drought relief assistance.

Despite its considerable success, however, the American family did not bat a thousand with this Congress. During the last several weeks, we have seen determined opposition to legislation that would dramatically improve the quality of life of our families. For instance, the effort to raise the minimum wage to restore the purchasing power lost over the past 7 years met with a filibuster by Members on the other side of the aisle. That filibuster prevented the Senate from completing action on that measure this year. Because of this, millions of workers, and their families, will continue to toil at a wage that does not even lift them out of poverty, even if they work full time.

In education, Congress reaffirmed its support for elementary and secondary education programs by reauthorizing the basic programs for 5 years and by starting a new program to focus resources on the needs of students who require additional attention to keep them from dropping out of school.

Additionally, the trade bill contained added resources and programs to upgrade the math and science skills of our students, the future workers who will carry on the fight to keep America competitive in the world marketplace.

Families with children have often had trouble finding decent, affordable housing. So it was a victory for families that Congress passed a fair housing bill extending coverage of our fair housing laws to the handicapped and to families with children under the age of 18. That bill was also notable because, for the first time in 20 years, it put teeth into the enforcement of existing fair housing laws.

Another achievement of this Congress was the reaffirmation that enforcement of civil rights statutes should be on the basis of an entire institution. The Civil Rights Restoration Act, also known as Grove City, overturned the Supreme Court decision that severely narrowed the application of many civil rights laws. The administration opposed this legislation from the beginning. The President vetoed it. But Congress stood its ground, and the bill was finally enacted into law over the President's veto.

The Congress also removed a blotch from our Nation's history when it passed legislation, long overdue, apologizing on behalf of the entire Nation for the interment of Japanese-Americans during

World War II. The bill also provides for reparations for each surviving internee.

ENVIRONMENT

Mr. President, I am pleased that the record of the 100th Congress shows not only considerable achievements for America's families but for America's environment as well. Early in this Congress, we passed, by an overwhelming margin, the Clean Water Act, which reauthorized grants for the construction of municipal wastewater treatment plants. It also established a new revolving fund to provide loans to States to continue construction of such plants and provided new resources to control the growing problem of nonpoint pollution.

However, the administration opposed the Congress every step of the way. Despite the large congressional support for the measure, the President vetoed it. The Congress overrode his veto. Today, Americans are enjoying the benefits of the legislation.

As the tides of this past summer brought unprecedented quantities of medical waste floating onto our beaches, the Senate moved quickly to ban the dumping of medical waste into the ocean. The bill also established a framework to end the ocean dumping of sewage sludge. I hope that the Congress will agree on a final version of that bill so that we can send it to the President before we adjourn. It will mean cleaner and safer beaches for every American to enjoy.

American's natural heritage is also safer today with the strengthening of the law protecting endangered species. The legislation adds resources for the programs that protect such species from extinction, increases the penalties for those who violate the law, and requires speedier action by the Government to protect these species.

Unfortunately, this Congress was not able to complete action on clean air legislation. Our distinguished colleague, Senator Mitchell, has labored long and hard to achieve a consensus between competing interests. It is unfortunate that such a compromise could not be reached.

But the Senate did respond to concern about the greenhouse effect by ratifying the Montreal Protocol and Substances that Deplete the Ozone Layer. This international agreement will result in a 50-percent reduction in the consumption of products such as fluorocarbons by 1999 and a framework for accelerating the restrictions should that become necessary.

ENERGY

Last year, Congress repealed the prohibition that prevented utilities from burning natural gas or oil in new powerplants and boilers, But at the same time, Congress required all new baseload powerplants to be able to switch from oil or gas to coal in order to prevent our Nation's new electricity supplies from being held hostage to the whims of foreign oil producers.

The Senate also passed legislation reorganizing the regulation of nuclear energy. The bill establishes a new Nuclear Safety Agency, headed by a single administrator, to replace the current five-member Nuclear Regulatory Commission. And to improve the future viability of nuclear power, the bill requires the adoption of rules providing for standardized reactors designs. Congress also revised the Nation's nuclear waste policy to provide for the safe long-term storage of such waste and we passed legislation increasing and extending the liability limits for commercial nuclear powerplants.

BUDGET

On the budget, after 7 years of stalemate and frustration on budget and appropriations issues, the 100th Congress broke the logjam. We succeeded in getting the President, finally, to sit down with the Congress and negotiate a bipartisan budget that would provide for the necessities—including defense, transportation, and health care—while also reducing the deficit. True, it took the threat of a $23 billion sequester under the newly reinvigorated Gramm-Rudman law and a stock market crash that threatened the stability of our financial markets to help convince the President, but he finally negotiated on the budget.

It took too long. But the agreement came and it was a landmark accomplishment. It provides for deficit reduction of some $76 billion over 2 years. More importantly, it paved the way for Congress to pass all 13 separate appropriations bills before the beginning of the new fiscal year for the first time in 12 years.

That achievement is something to celebrate in itself, and all of my colleagues on both sides of the aisle deserve a pat on the back for their efforts in seeing that we met the midnight deadline.

We have all read of the midnight ride of Paul Revere. We saw the midnight ride of the House messenger who reached the Senate Chamber just in time, although he was out of breath, for action just 1 minute before the clock struck 12.

That achievement shows that Government can work. Meeting that deadline should restore the confidence of the public that Congress can get its work done—on time and within the budget if it has the cooperation of the President. For that we can all be proud.

I hope that one of the enduring legacies of this Congress will be the illustration by example to the next President, whoever that might be, that successful resolution of the difficult budget issues that confront this Nation requires cooperation, not confrontation, between the executive and legislative branches.

Cooperation between the legislative and executive branches succeeds, Mr. President. Confrontation does not. And that is true not just in budget matters. It also applies to foreign policy issues, defense issues, indeed the entire range of areas in which sound public policy requires the involvement of both branches of Government.

NOMINATIONS

Among the numerous nominations received by the Senate during the 100th Congress, the Senate has confirmed seven Cabinet members and one associate justice of the Supreme Court. The Senate also rejected the nomination of another Associate Justice, Mr. Robert Bork.

GENERAL GOVERNMENT

Mr. President, the Congress has seen the benefits that accrue from having independent inspectors general within agencies to ferret out waste and fraud. We have enacted legislation adding five new IG's to ensure that expenditures in a time of limited resources are not wasted. The legislation also standardizes and streamlines the powers and reporting requirements of all inspectors general.

Lobbying by former Government officials has received considerable attention during the past 2 years. We have seen abuse after abuse as officials turn the revolving door of public service into a trap door for the public interest. In April, the Senate passed a bill that strictly limits lobbying by former top officials of the executive branch, Members of Congress, and senior congressional staff of their former colleagues and institutions. I hope that this legislation will be finally enacted between the two Houses and sent to the President for his signature.

One major disappointment for me in this Congress was the near solid opposition by our friends on the other side of the aisle to legislation to reform congressional election financing. The bill that Senator BOREN and I offered along with 49 cosponsors, would have placed an absolute limit on campaign spending in Senate elections and contributions by political action committees.

That is the start of reforming the money chase that has contributed to the deterioration of the quality of life in the Senate and in our ability to perform our responsibilities. The Members on the other side of the aisle who opposed this reform effort were so adamant in their opposition that they were able to withstand a record eight cloture votes. The legislation failed in this Congress, Mr. President, but the issue will not go away.

Families across America are confronted on all sides by the scourge of illegal drugs. It is an epidemic that is sweeping up our children and destroying lives. Since May, Senators on both sides of the aisle have been working to develop a comprehensive anti-drug abuse bill to reinforce our faltering war on drugs.

This legislation has been passed by both Houses and we now await the further action by the House, either by way of a conference or by way of perhaps messages between the two Houses. Hopefully, before the end of the week, we will be able to finalize that legislation and send it to the President.

The drug crisis is too important not to begin devoting more resources to our fight this year.

ECONOMY-FINANCE

The 100th Congress saw passage of legislation to put additional resources into the savings and loan insurance agency to prop up failing thrifts and to establish limits on consumer check holds. The Senate also passed by an overwhelming margin a measure to expand the powers of banks, improve their ability to compete internationally, and strengthen the American financial system. The Congress is also working on a bill to correct technical and other errors in the 1986 Tax Reform Act.

This is another matter awaiting final action by the two Houses and work is going forward on it. I hope that action can be completed on that measure during the week.

THE OMNIBUS TRADE AND COMPETITIVENESS BILL

One of the jewels of legislative actions in this highly productive Congress was the enactment of the most comprehensive trade and competitiveness bill in decades. It was the product of the work of nine Senate committees and, of course, a great deal of work in the other body went into the bill. It was fashioned, at first over the opposition of the President, and finally with his grudging cooperation. It survived one veto and finally established important new tools to reverse the dangerous triple-digit trade deficits we have faced over the last 8 years. The range of domestic and international matters addressed in that trade bill redefined our perceptions and approaches in the fields of competition and the exchange of goods and services, linking for the first time such diverse fields as education, job retraining, unfair trade practices, intellectual property questions, and Third-World debt.

The goals of this measure are to open world markets more fairly to U.S. products, while strengthening the underpinnings of our manufacturing and technological base by directing resources to the basics, including math and science education. It intends to reinvigorate our competitive edge and expand jobs for American workers.

This administration's recordbreaking, job-destroying trade deficits have turned the world's largest creditor into the world's largest debtor. These deficits have wiped out more than 1 million American manufacturing jobs, forced too many industries to close their doors, and are causing an erosion of our defense industrial base, thus putting our national security in jeopardy.

This country, our workers, and our industries and businesses have suffered from one recordbreaking trade deficit after another. Last year's deficit was about $171 billion, yet another recordbreaking trade deficit.

From its very first day in office, this administration has neglected our trade problems and attempted to block every effort by congressional Democrats to resolve this crisis. But throughout the 100th Congress, and long before, congressional Democrats have struggled to get a hold on our trade problems, to make our industries competitive again, and to insure that they are competing on a level playing field by developing a national trade strategy.

The trade bill also addresses the need to develop a more coherent framework for identifying the problems which need corrective action in our trade situation, and for a new system to deal with those problems in a vigorous and credible way.

It lays out a realistic, predictable timetable for action by the administration to attack trade imbalances caused by unfair foreign barriers, and to require retaliatory action if those negotiations fail through a process that has been called the super 301 process, and is based on the amendment which I developed and offered together with the distinguished minority leader, Mr. Dole, and Senators Danforth and Riegle.

The super 301 amendment was called the expanded American opportunities amendment because it provides a market-opening initiative while focusing on unfair trade barriers by our trading partners. Under this amendment, the President, through the U.S. Trade Representative [USTR], would require negotiations with all countries that "maintain a consistent pattern of import barriers and market distorting practices." The focus is on negotiations to seek elimination of barriers, including structural conditions that effectively bar imports, or some kind of compensation with economic sanctions serving as the stick to try to prod countries along. This will help remove protectionism from the world trading system by setting out a process which puts pressure on those unfair barriers which are the essence of mercantilist practices, or protectionism, today.

The omnibus trade bill contained another important provision which recognizes the link between trade and national security—the Exon-Florio provision which gives the Federal Government the specific authority to prevent the acquisition of U.S. firms by foreign companies if the President determines that the foreign interest might take action to impair the national security. This is the first concrete legislative response to rising concern about foreign takeovers.

Thanks to the effective work of the manager of the bill, Senator Bentsen, who guided the measure through the hearings, the markup process, and throughout the debate and the floor action on the bill, this much needed measure easily passed the Senate by a vote of 63 to 36 on April 27, 1988. It had passed the House by a vote of 312 to 107 on April 21, 1988. On May 24, the President vetoed the bill for a variety of reasons. The House voted, 308 to 113, to override the veto on May 24, but the Senate sustained the veto by a vote of 61 to 37 on June 8, 1988. The measure was reintroduced in both Houses of Congress and, with some modifications, passed, and was again sent to the President without the plant closing legislation, which had already been sent to the President and had become law. This time, the President signed the measure into law.

The Omnibus Trade and Competitiveness Act is a long step beyond traditional trade legislation. The Congress is looking at the whole economy, not just at its parts. This legislation looks at our problems in the whole, full circle—encompassing everything from exchange rates to education; from training assistance to trade negotiations. Trade has become too important to be treated in isolation. For the first time, our actions on trade are part of an integrated approach to making American products competitive at home and abroad. This legislation will bring America up to speed in today's world marketplace and prepare it for the international economy of the year 2000, and beyond. Congress made a clear statement that America is going to compete, not retreat.

I am proud of the enormous and successful role that Senate Democrats had in the passage of this measure which is not only the beginning of a turnaround for America's trading woes, but also the beginning of a turnaround in a trade strategy.

The 100th Congress also passed two other bills that attempted to resolve serious trade problems. First, the textile bill, which passed both bodies only to be vetoed by the President, tried to restore soundness to America's battered textile and footwear industry. That was a good bill. It would have made good law. It deserved to be signed, but it was not.

Second, the Senate passed the Berne Convention, as well, which strengthens the copyright protection for our intellectual property, such as books, recordings, computer software, and the like. With this action, America's artists and designers will be better able to guard the fruits of their labor from foreign policy.

FOREIGN POLICY AND DEFENSE

The historic 100th Congress has been dominated by foreign policy and defense issues. For 6 years under the Reagan administration, American foreign policy was in shambles. There was drift, vacillation, and chaos. There was disaster and retreat in Lebanon and a one-track militarization policy in Central America. Six years of negotiations with the Soviet Union had yielded no results whatsoever in the broad field of arms control or reductions. Mounting U.S. deficits with our trading partners had not ignited the administration sufficiently to move toward new trade laws or policy appropriate to the problems. And, as we found out on that November day in 1986, for too many years a clandestine foreign policy of this open and democratic society was being conducted in the dark corners and shadows of the basement of the White House. The revelations that the administration was conducting a secret policy of attempting to bribe the Iranian regime with weapons and spare parts in exchange for the release of American hostages taken by forces controlled by that regime, shocked the American people and the world.

Mr. President, the 100th Congress tackled these issues across the board, and there was a large measure of success which Senators can legitimately be proud of on both sides of the aisle. Those successes that were achieved—in arms control, in trade, and in dealing with the Third World—came as a result of a consensus-building process in the Senate which, when it was achieved, had the salutary effect of bringing the Congress and the executive branch sufficiently together to speak coherently as one nation. In those areas where consensus was not achieved, despite sometimes exhaustive efforts in this body, the results were unsatisfactory, and in those same areas, the challenges for the next administration and the next Congress are formidable—the situation in Central America being the most obvious case in point—or one of the most obvious cases in point. The Middle East may well be another.

The Senate led the drive for a coherent and consistent foreign policy worthy of a nation that leads and protects the free world. We recognized that the United States cannot be naive in a world where some nations resort to the use of chemical weapons even against their own people, where the other superpower intentionally manufactures toy bombs to cripple the innocent children of its neighboring country, and where certain regimes concoct policies to hold hostages for political gain. Strength to deal with these kinds of regimes and these kinds of behavior is needed. The growing strength of our allies is the great success story of the policies which were fostered by the United States after World War II. We can take pride as a nation that former adversaries are now our allies and have growing and robust economic systems. Indeed, our challenge has been, and will continue to be, to act as a leader of the West, while at the same time developing new cooperative roles which recognize the growing strengths of our alliance partners.

In the historic 100th Congress, the U.S. Senate fulfilled its historic and constitutional role of being a responsible and equal partner in foreign policy with the executive as contemplated and planned 200 years ago by our Founding Fathers.

Forty years after President Truman submitted the Genocide Convention Treaty to the Senate, implementing legislation was finally adopted on October 14, 1988. The Proxmire Act, which makes U.S. membership in the Genocide Convention effective, is a tribute to Senator William Proxmire who made over 3,000 speeches, every day on the floor for almost 20 years, until the Senate ratified the convention in 1986.

From the Middle East to South Africa, in Central America and in East Asia, the Senate fashioned programs and policies based on the effective use of the full range of America's economic, political, and diplomatic tools and resources.

For the most part, we Democrats cooperated with the White House and with the minority party in the Senate. The first arms control treaty with the Soviet Union in 18 years was approved by this body in a way that improved the substance of that treaty. It resulted in a creative new partnership with the administration, partly the result of new institutional links between the two branches in this field, created by the joint leadership of this Senate. This was undoubtedly the most exhaustive, thorough, and productive action of the modern Senate in the treaty-making field.

Exhaustive interactions between the Senate and the executive on matters affecting the Persian Gulf, our relations with Japan, the challenges to democracy in Central America, our economic relations with our great northern neighbor, Canada—all of these have reflected the proper constitutional role of the Senate in dealing with the staggering range of major foreign policy issues that have confronted the Nation during the 100th Congress.

We supported the President when we could, but we opposed him when we believed America's best interests necessitated a different path. And when we took a different path, we did so with meaningful, constructive purpose, and in meaningful, constructive ways.

Undoubtedly, the darkest hours were related to the arms-for-hostages scandal, but the lessons that were learned make it less likely—we all hope—that such wrong-headed policymaking—deliberately concealed in order to avoid the kind of open congressional and national debate so conducive to a sound national policy—will ever occur again. The executive learned some cardinal lessons about the virtues of the proper way to formulate bipartisan and sound foreign policy in a representative democracy.

IRAN-CONTRA (ARMS-FOR-HOSTAGES) AFFAIR

Maybe it was coincidence, or perhaps it was fortuitous that the 100th Congress, which did so much to restore the Senate's proper role as a responsible partner in foreign policy, was forced to deal with the greatest constitutional crisis since the Watergate era of the early 1970's. In November 1986, it was discovered that United States officials and private citizens had been involved in selling United States weapons to Iran in exchange for Iranian intercession with groups in Lebanon holding United States citizens hostage. Proceeds from the arms sales were used to support the anti-Sandinista forces in Nicaragua, despite congressional prohibitions, for example, the Boland amendments against such assistance.

This unconstitutional and bizarre stunt was shrouded in secrecy and duplicity. It had no place in an open, democratic society governed by laws, not men. It damaged the reputation of the Presidency and the credibility of the United States with our friends and allies, and it undermined the trust between the executive and legislative branches of the U.S. Government. It called into question just how our foreign policy is formulated and implemented, and it prompted the American people to ask: What is going on in Washington?

Therefore, one of the first acts of the 100th Congress was a move to restore integrity to our foreign policy. On the first day of the 100th Congress, January 6, 1987, the Senate approved Senate Resolution 23 by a vote of 88 to 4, which established the Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition to investigate the Iran-Contra scandal.

With Senator Daniel Inouye serving as chairman and Senator Warren Rudman as vice chairman, the Select Committee conducted public hearings in conjunction with the House Select Committee between May and August 1987.

The Committee—acting with the House Committee—performed in an extraordinary way, working hard and long under the pressure of deadlines. It plowed through 500,000 documents and heard from hundreds of witnesses. It proceeded in the face of hostile witnesses—witnesses who played to the galleries, witnesses who wrapped themselves in the American flag or hid behind military uniforms.

Methodically and impartially, the committee sought to ascertain just what did happen: What did the President know, and when did he forget it? The story that unfolded was a sad and sorry tale of White House arrogance and disdain for Congress and the American people, of contempt for the law, and of the intentional and studied circumvention of our constitutional system of separation of powers and checks and balances.

The members of this Select Committee performed with patience and aplomb in dealing with the often contemptible behavior from insolent, intractable, belligerent witnesses and attorneys. The members are to be commended. They are owed a deep debt of gratitude for their bipartisan commitment to demonstrating that this Nation must be a nation of laws and not of men if it is to endure as a free people. The joint Senate-House Committee demonstrated a determined resolve to air the facts fully, dispassionately, and carefully—and to let the chips fall where they may.

The Select Committee issued its report on November 13, 1987. It contained a number of important recommendations. For example, a number of improvements in the process for informing Congress of executive branch findings concerning covert operations were suggested, many of which were incorporated into the intelligence oversight bill, S. 1721, adopted by the Senate on March 15, 1988. In addition, the committee recommended that the NSC staff be banned from involvement in operational activities, that documents be preserved more carefully, that the dangerous trend toward privatizing American foreign policy be halted, that the Inspector General of the CIA be given additional powers, that the oversight and participation of the members of the National Security Council and the Intelligence Oversight Board and the Chairman of the Joint Chiefs of Staff be strengthened. These and other recommendations of the Select Committees are valuable contributions to the strengthening of our system of government and toward insuring that episodes like the arms-for-hostages fiasco will not happen again.

It is a tribute to the work of that investigative group that the Senate passed legislation produced by the Intelligence Committee, which would revise the procedures by which we deal with covert operations initiated by the executive branch, by an overwhelming majority of 71 to 12. This legislation, the oversight bill, modifies current law to make clear that the intelligence committees are to be notified prior to initiation of a covert operation, or at the latest, within 48 hours of Presidential approval. The legislation also closes current loopholes to require information in the written findings submitted to Congress on who is participating in the operation, including private parties, contractors, and third countries.

While this legislation has not been acted on by the other body, I hope that it will be one of the early pieces of business to be completed by the 101st Congress. In addition, I would add that the oversight role that is being conducted on a daily basis by the Senate Intelligence Committee has been vigilant, responsible, and laudable, and the bipartisan leadership of that committee is to be commended for its excellent and workmanlike record.

I take this opportunity to thank and congratulate Chairman Boren and the ranking member Senator Cohen, and all members of the committee for their tremendous efforts in this investigation. The Senate and the Nation are indebted to them and the staff of the committee for their efforts.

THE PERSIAN GULF AND WAR POWERS

During the 100th Congress, the Persian Gulf became a sea of horrors. From the murderous mistaken attack on the U.S.S. *Stark* by an Iraqi jet fighter on May 17, 1987, to the destruction of a civilian air liner by the U.S.S. *Vincennes* on July 3, 1988, from Iranian attacks on oil tankers and American naval ships to the sinking of Iranian naval boats and the destruction of Iranian oil platforms, the Persian Gulf was dominated by tension and death.

American involvement in the Persian Gulf expanded dramatically in 1987, when the Reagan administration accepted a Kuwaiti request to reflag and escort 11 Kuwaiti oil tankers. The administration had thus placed the United States in the strange and awkward position of putting our flag on someone else's ships and then spending our money and risking American lives to protect them because our credibility and our commitments to our friends in the region had been called into question by the disastrous initiatives which led to the Iran-Contra fiasco and our tragic failure in Beirut.

The decision by the Reagan administration to increase the United States naval presence in the Persian Gulf at the height of the Iran-Iraq war raised the issue of whether the War Powers Resolution should be invoked. The administration steadfastly refused to acknowledge that American forces had been placed into a situation where involvement in hostilities was imminent and, therefore, refused to be bound by the limitations of the statute. The Senate spent considerable time debating this point throughout 1988.

On May 21, 1987, the Senate adopted by a vote of 91 to 5 an amendment on Persian Gulf policy which I offered with the distinguished Republican leader to the supplemental appropriations bill. It required a comprehensive report and assessment by the Secretary of Defense on the security situation in the Gulf prior to the initiation of United States military protection for reflagged Kuwaiti shipping. In the report, the Secretary was to address the security arrangements in the Persian Gulf, the risks we faced, and the forces necessary to meet those risks. This extensive reporting requirement was just the first in a long series of oversight actions, reports, and interchanges, including two special Senate investigative trips to the region. The two missions I appointed, led by Senators Sasser, Glenn, and Warner, provided assiduous oversight by the Senate of this evolving matter. The reports of these missions were valuable to the Senate's understanding of America's stakes in the Gulf.

The intent of my initial amendment was to flesh out the threats to United States interests in the gulf, and for the Secretary of Defense to inform the Congress as to how he proposed that we prepare to respond to the range of threats, primarily Iranian, to our interests and to the interests of Kuwait and other states in the gulf region. This first report was delivered on June 15, 1987.

While some questioned the extensive oversight conducted by the Senate in regard to U.S. naval operations in the gulf, I would point out that the configuration of the U.S. naval forces there was dramatically upgraded as a result of Senate prodding, making a repetition of the *Stark* incident less likely. This included larger, more capable ships and the continuous presence in the region of carrier and battleship groups. Furthermore, constant prodding by the Senate of our allies and friends in Europe and the Persian Gulf region was, I believe, instrumental in stimulating a greater level of support and participation by those nations in U.S. operations in that region.

The level of confidence in the way in which the administration conducted those operations and assessed the threats was eroded in the initial stages by what was perceived as a quick decision to take the Kuwaitis up on their offer, prompted by fear that the Soviets would displace the United States in that region. As a result, for instance, the report that was delivered as a consequence of my amendment failed to even mention mines as a threat to the shipping in the gulf. As is well known, of course, mines did take their toll on American ships, and ironically, on the first Kuwaiti supertanker to be escorted by an American warship on July 24, 1987. There was a feeling that, to compensate for the administration's embarrassment in the Iran hostages-for-arms affair, the President was too willing to tilt in the direction of Iraq in the war while we were professing neutrality. The escorting of Kuwaiti tankers was perceived in the same light, but there was a feeling on the part of many that, with American prestige so badly damaged by the hostages issue, on top of our failures in Lebanon, we had to prove our credibility and staying power by accommodating the Kuwaitis—despite the obvious risks of the mission, and the fact that our allies were generally unwilling to cooperate with us in such a highly visible way.

Fortunately, the war is now apparently drawing to a close, and the naval missions which this body was so skeptical of are hopefully to be terminated shortly. America's commitment to the gulf remains intact and is the subject of widespread consensus in the Senate. Now missions which put us on one side or another in any resurgence of the war would, as in the last couple of years, be resisted.

The Senate attempted on several occasions to express its will on policy in the Persian Gulf. In each case, it was impossible to get the 60 votes necessary to limit debate on the proposed amendments or resolutions. Many senators were reluctant to pass legislation invoking the War Powers Resolution, in part because that resolution would require the automatic withdrawal of forces within 60 days unless their continued deployment was subsequently authorized.

This impasse lasted until October, 1987, when the Senate voted narrowly to pass Senate Joint Resolution 194, coauthored by Senator Warner and myself. I believe that this embodied a responsible approach to our Persian Gulf policy, supporting the long-term U.S. naval presence in the gulf, but requiring a comprehensive Presidential report on the objectives of specific military missions being embarked upon by the President.

In addition, this resolution created a set of procedures which would have permitted a joint resolution addressing the policy questions of our gulf involvement to be dealt with expeditiously by the Congress. Although the Senate passed this resolution, it was not acted upon by the House. This measure, which in many ways duplicates the requirements of the War Powers Resolution without triggering the automatic timetable, represented the Senate's final effort to address the matter legislatively, in view of the demonstrated reluctance of the body to vote for resolutions which would have triggered the War Powers Resolution itself.

The events that transpired in the Persian Gulf during the 100th Congress demonstrated once again that the War Powers Resolution, as presently written, is unworkable and needs to be changed or repealed. In response to this need, I introduced Senate Joint Resolution 323, along with Senators Nunn, Mitchell, and Warner, to amend the War Powers Resolution. The legislation includes three central provisions intended to make the relationship with the President in this area viable.

The first key revision changes the presumption of the current War Powers Resolution, which is that U.S. Armed Forces must be withdrawn from situations of hostilities or imminent involvement in hostilities within 60 days unless Congress specifically authorizes their continued presence. Instead of mandating withdrawal as a result of congressional inaction through failure to provide specific authorization—the situation under current law—this legislation requires passage of a specific joint resolution requiring disengagement.

Second, a new consultative process is created, through the establishment of a permanent consultative group, consisting of the majority and minority leadership of both Houses as well as the chairmen and ranking members of the three key committees in the House and the Senate involved with national security matters.

The existence of this consultative group would enhance the prospects for timely, full dialog with the President before commitments to engage U.S. forces were decided upon.

Finally, this legislation recognizes the ultimate enforcement mechanism that will ensure that the President cannot defy the Congress. This is the power of the purse.

These changes to the War Powers Resolution would improve the ability of Congress to participate equally and effectively in decisions to employ U.S. military forces in the broad variety of situations which the modern world presents. At the same time, constitutional powers of the Congress to declare war, and to determine through the appropriations process how funds will be expended for military forces are preserved. This avoids the situation currently pertaining in which the Congress has only two often untenable choices: support the President's policy or force the complete withdrawal of U.S. forces within 60 days.

INF TREATY

After 7 years, the Reagan administration finally managed to reach an arms control agreement with the Soviet Union. On December 8, 1987, President Reagan and General Secretary Gorbachev signed the Intermediate Range Nuclear Forces [INF] Treaty to eliminate all INF missiles within 3 years. It was the first major arms reduction agreement in over a decade, and it set the stage for Senate consideration of the treaty in early 1988.

The INF agreement was the culmination of a long, bipartisan process initiated in 1979, under the Carter administration, when the dual-track NATO policy of weapons deployment and negotiations was put into place. The tenacity of NATO in pursuing this policy, at considerable political cost in some of the European deployment countries, strengthened the alliance and provided the needed leverage to bring the Soviets to the negotiations talks in Geneva.

I am pleased and proud of the role of the Congress, not only in confirming the treaty but also in developing it.

On the very first day of the 100th Congress, January 6, 1987, the distinguished minority leader and I offered, and the Senate approved, Senate Resolution 30, which reauthorized the Arms Control Observer Group.[1] This unique group was originally created by the Senate on February 28 1985, to supplement the activities of the Foreign Relations Committee by providing a more regular and systematic involvement of the full Senate in any arms control negotiations which the United States is officially undertaking with the Soviet Union. This bipartisan group was highly complimented by Secretary Shultz and other high-ranking officials in the administration as it followed the arms control process in Geneva closely, provided valuable insights to the Senate on the negotiations process, and played an important role in the Senate's duty to advise and consent on treaty ratification.

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[1] S. Res. 86, 99th Congress was further amended to redesignate and reauthorize the Senate Arms Control Observer Group during the 100th Congress by S. Res. 466. The revised resolution is found at Appendix 5.

I also began meeting with the chairmen of three Senate committees which would be heavily involved in the Senate's work on the treaty: Foreign Relations, the committee of jurisdiction; Armed Services; and Intelligence. I asked the committees to work together under the Senate leadership and to coordinate their efforts. The Armed Services Committee was asked to focus special attention on the military implications of the INF Treaty for the NATO Alliance. The Intelligence Committee was asked to examine carefully the verification and inspection provisions of the treaty.

On February 17, 1987, the Senate approved Senate Resolution 94, which I submitted on behalf of myself and others. This resolution expressed the Senate's full support for the commitment by the President to achieve mutual, equitable, balanced, verifiable, and stabilizing nuclear arms reduction agreements with the Soviet Union. It further encouraged the United States and the Soviet Union to use determined and creative diplomacy at the Geneva negotiations to resolve their remaining differences.

The implications of an INF Treaty for NATO strategy were recognized as important issues by the Congress. On September 26, 1987, I was joined by Senator Nunn in offering an amendment to the fiscal year 1988 DOD authorization bill requiring the Secretary of Defense to submit to Congress a report regarding the ability of the North Atlantic Treaty Organization [NATO] to maintain its strategy of deterrence through the 1990's. The amendment required an analysis of the key military implications of an arms control agreement between the United States and the Soviet Union and required an examination by the Secretary of Defense, of NATO modernization requirements and NATO's strategy of deterrence and flexible response under an INF Treaty.

I am pleased to point out that the Defense Department produced a solid report, "Support of NATO Strategy in the 1990's" that responded to the congressional request. It discussed how INF missile reductions fit with NATO objectives and how they relate to the Alliance's flexible response strategy. This excellent report helped to focus the attention of the Senate on the ramifications of treaty enactment for the Western alliance. The information in the report was valuable to the Senate in its consideration of the treaty elimination INF weapons from Europe. Above all, the report helped to assure the Senate, the American people, and our allies that under the INF Treaty, NATO would be able to preserve deterrence in Europe and the unity and effectiveness of the Alliance. I commend the Secretary of Defense for this study.

On December 19, 1987, the Senate approved Senate Resolution 348 which Senator Dole and I had offered. This legislation established the Arms Control Treaty Review Support Office to provide the administrative and logistical capability to organize and make usable the negotiating record of the treaty. The data base compiled by the Treaty Review Support Office was used not only by the Senate but also by the State Department as well.

Because of the critical importance of the INF Treaty to the NATO Alliance, I led a bipartisan delegation of Senators to Europe in early February 1988 for consultations with key leaders of the alliance. The delegation visited London, Bonn, Paris, Ankara, and Rome, and met with the leaders of each Government as well as with opposition politicians and key opinion leaders in the private sector in each country. Discussions were wide ranging and productive. The leaders of the alliance were united in their view—for different reasons—that the INF Treaty should be approved by the Senate (S. Doc. 100-27).

The three committees in the Senate began their examination of the treaty text and documents in January. Each committee compiled voluminous expert testimony, conducted extensive hearings in public and executive sessions, and submitted its recommendations to the Senate in formal reports.

Each committee identified issues requiring further clarification. The Intelligence Committee raised concerns about the ability to monitor future treaties limiting strategic arms and about the implementation of the onsite inspection regime of the treaty. The Armed Services Committee raised the question of whether missiles using futuristic technologies were also banned by the treaty. The Foreign Relations Committee concluded that a condition on treaty interpretation should be attached to the Resolution of Ratification. On March 30, the Foreign Relations Committee voted 17 to 2 to report the treaty to the full Senate, but recommended attaching a proposed condition on treaty interpretation.

In early May, I pointed out that until it was clear that the United States and the Soviet Union had resolved the issues and concerns raised by the Armed Services and Intelligence Committees, floor debate would not begin. Subsequently, Secretary of State Shultz and Soviet Foreign Minister Shevardnadze met in Geneva and resolved the issues to the satisfaction of all sides. During debate on the Resolution of Ratification, the documents reflecting these understandings were incorporated as binding conditions to the Senate's advice and consent. Administration officials expressed agreement with my observation that the actions of the Senate, in insisting on clarification of these issues and on Soviet assent, had strengthened the treaty.

During floor debate, a condition on treaty interpretation was adopted, as a result of an amendment that I offered on behalf of myself and Messrs. Pell, Boren, Nunn, Cohen, Warner, and others, to reflect a bipartisan understanding of the role of the Senate in treaty-making and to reflect the common understanding, shared by the Senate and the President, as to the meaning of the treaty. This makes it clear that unilateral executive branch reinterpretation of treaties, as asserted by the Sofaer doctrine with regard to the ABM Treaty, will not be allowed to undermine the Senate's constitutional role.

The Senate rejected all amendments which would have fundamentally altered the meaning of the treaty. Most importantly, the Senate insisted on clarifying that missiles using future technologies were also banned, that the subsequent agreements on inspection were of equal force as the treaty, and that the two sides shared an understanding of treaty restrictions on missile stages.

After 2 weeks of intense debate, the Senate voted on May 27 to approve the Resolution of Ratification. The vote was 93 to 5. In recognition of the key role played by the Senate leadership in successfully concluding the debate on the INF Treaty, the Republican leader, Mr. Dole, and I were invited to attend the summit in Moscow where the INF Treaty was formally ratified on June 1, 1988.

The INF Treaty is a better treaty as a consequence of the Senate's scrutiny, because in fulfilling its advice and consent role, critical questions were raised and in turn clarified, and those clarifications are a formal part of the ratification record.

The three committee chairmen, Senators Pell, Nunn, and Boren are to be commended for their work. Also playing important roles were Senators Levin and Sarbanes and, on the Republican side, Senators Dole, Helms, Warner, Lugar, Cohen, and Stevens. I also commend the painstaking work by our negotiating experts in Geneva. When the Senate raised important questions on the INF Treaty, our experts returned to the negotiating table to do the work that had been left undone. With arms control agreements, the devil is always in the details.[2]

CONTRA AID

The administration has chosen to make aid to the Contras the centerpiece of its Central American policy. Such a narrowly focused one-track military policy has proved to be fatally flawed and has produced a regional diplomatic failure for the United States.

There have been charges that the Congress has not provided sufficient assistance to the Contras and, thus, is somehow responsible for the administration's failed Central American policy. The Contras have not failed for want of assistance. According to the Congressional Research Service, since 1982, the United States has provided them with $244.9 million in assistance—$102 million in nonlethal; $142 million in military. And we do not know how much additional financial assistance they have received through the various conduits—legal and illegal, public and private, developed and maintained by Lieutenant Colonel North, various and sundry private citizens, arms dealers, and the like.

On March 12, 1987, the Senate approved S. 3075, a resolution by Senator Sanford, that supported the initiatives by the Central American heads of state who were meeting in San Jose, Costa Rica, to formulate a regional proposal for bringing about an end to armed conflict in Central America.

After almost 7 years of regional warfare, the Presidents of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua met in

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[2] The questions raised in connection with the INF Treaty, regarding the enhancement of the security of the United States and its allies, will be far more critical in connection with any strategic weapons or START Treaty. In order to develop an understanding of the relationship between alternative strategic nuclear force postures and the provisions of such a treaty, the distinguished Minority Leader, Mr. Dole and I authored a Presidential reporting requirement which is due to be delivered to the Congress on March 15, 1989. The text of the amendment is found at Appendix 10.

Guatemala on August 7, 1987, and, under the leadership of President Arias, signed an accord designed to end the fighting and seek a diplomatic and political settlement of the regional conflict. The Senate gave its full support to this diplomatic initiative by passing Senate Concurrent Resolution 71 which, in addition to congratulating the Presidents, urged them to implement the provisions of the peace accord through good faith efforts and pledged the Senate's full cooperation in such implementation.

On August 7, 1987, the Senate established a bipartisan group of Senators known as the Senate Central American Negotiations Observer Group by adopting Senate Resolution 273. Eight Senators were appointed to serve as official observers to any and all negotiations with the governments of the Central American countries of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua to which the United States is a party and to any new multilateral positions or discussions dealing with the question of peace in Central America to which such countries are invited to participate.

On March 23, 1988, representatives of the Nicaraguan Government and the Contras met at Sapoa, Nicaragua, and in accord with the provisions of the Arias peace plan, signed an agreement to negotiate a cease-fire and the terms beginning a process of national reconciliation. Following both sides having agreed to a 60-day cease-fire period, the House overwhelmingly approved a $47.9 million nonlethal assistance package (H.J. Res. 523, Public Law 100-276) by a vote of 345 to 70. On March 31, 1988, the Senate voted 87 to 8 to approve this nonlethal aid package which was designed to keep the Contras as a viable force while the negotiations went forward. The legislation, which was signed into law on April 1, 1988, provided $17.7 million for food, clothing, shelter, and medical supplies for the Contras, including $1.5 million for communications equipment and $2.19 million for a Nicaraguan Indian group called YATAMA, while an additional $17.7 million was allocated to children injured in the Nicaraguan fighting.

On August 10, 1988, the Senate approved amendment No. 2813 which I offered to the Defense appropriations bill on behalf of Senators Dodd, Boren, Stennis, Johnston, Chiles, and myself. I had offered this amendment as an attempt to form a bipartisan consensus to protect the United States' regional security interests, while promoting peace and stability. Senate Democrats adopted my amendment by a vote of 49 to 47 over the opposition of the White House and all of our Republican colleagues. The amendment provides $27 million in humanitarian assistance to the Contras through March 31, 1989, and $5 million for assistance to civilian victims of the war, to be administered by the Catholic Church in Nicaragua. It also authorizes the President to receive expedited action for the release of $16.5 million of previously authorized military aid for the Contras, if he requests and certifies to the Congress that such an expedited vote is necessary to protect the Contras from an attack or a Sandinista action which threatens the peace and security of the region. Additionally, it outlines economic incentives to encourage the Sandinistas to reach a general peace settlement with the Contras. This amendment puts the Sandinistas on notice that this Congress supports diplomatic solutions as the way to resolve the conflict in Central America, but it also sends them a message that we are prepared to return to military pressure if they fail to keep their word to democratize their government. Mr. Ortega cannot be allowed to continue to restrict the democratic hopes of the people of Nicaragua, and by his actions create an emergency situation having a critical impact on peace and stability in Central America.

This aid, it is believed, will keep the pressure on the Sandinistas to finalize a peace agreement with the Contras. It places compliance with the peace process where it belongs, in the hands of the Central Americans and acknowledges support for the civilian victims of this long period of fighting.

This gives clear notice to the Sandinistas that they have reached a crucial point in their future course of action. Mr. Ortega should understand that he has reached a crucial fork in the road. It is time to comply with the provisions of the Arias peace accord and move to a genuine pluralistic democratic process in Nicaragua.

It is also important to recognize that, by pursuing a diplomatic and political settlement, the region will be spared the adverse destabilization that has affected the region and caused the administration to be distracted from the pressing social and economic problems facing our neighbors in Mexico and in South America. It is incumbent on the next administration to take a more realistic appraisal of the dynamics of the critical situation in Central America and begin to work with the new Congress to establish a bipartisan policy which is in harmony with the desires of the Central American people, while protecting vital U.S. security interests in that neighboring region of our hemisphere.

AFGHANISTAN

The Soviet invasion of Afghanistan in December 1979, and its subsequent occupation by over 100,000 heavily mechanized Soviet troops, has been characterized by extreme brutality and a campaign of indiscriminate violence that has taken the lives of an estimated 1 million Afghans, and displaced more than 4 million others. It has had the effect of putting constant pressure on Pakistan, an important ally of the United States. The response of the United States was to provide constant, bipartisan support for a Soviet withdrawal from Afghanistan, and substantial material support to the Mujahadeen, or Afghan freedom fighters, battling both the Soviet forces and their Kabul puppet regime's troops at the same time.

The continued strong bipartisan support for an assistance program in coordination with other nations, particularly Pakistan, was directly instrumental in the resulting announced withdrawal of Soviet forces from Afghanistan. The withdrawal, which began on May 15, 1988, is now roughly one-half complete. Senate policy on this matter was embodied in a series of important resolutions.

On January 6, 1987, I introduced, and the Senate approved Senate Resolution 31 by a vote of 92 to 0, offered on behalf of myself, Senator DOLE and others. This resolution committed the Senate to continue its policy of providing all appropriate material assistance to the people of Afghanistan against the "outside invader." It renewed the Senate's condemnation of the continued Soviet invasion and occupation of the sovereign State of Afghanistan and urged the Secretary of State to continue and accelerate vigorous diplomatic efforts and to develop multilateral diplomatic efforts whenever possible so as to put pressure on the Soviet leadership to withdraw. It also urged the Secretary to put pressure on the Soviets and their Kabul puppets to allow foreign journalists full access to Afghanistan in order to report on events there.

The following year, on February 29, 1988, the Senate passed Senate Resolution 386 by a vote of 77 to 0. This important legislation expressed the sense of the Senate on United States policy toward Afghanistan, and especially toward the possibility of a Soviet troop withdrawal. It declared that any settlement in Afghanistan must provide for Afghan self-determination, outline a definite timetable for the complete withdrawal of Soviet troops, and provide for the safe return of refugees. It further urged the President to support a solution acceptable to the Afghan resistance, insist on the withdrawal of Soviet advisers with the troops, require the Soviets to terminate all forms of military assistance to the Kabul regime, and ensure continued international assistance to the Afghan refugees until all Soviet bloc forces have been withdrawn.

This resolution emphasized support for the Government of Pakistan and the need to address a multitude of issues surrounding the Soviet withdrawal most importantly, this resolution clearly delineated the essential focal point of United States policy, that the United States should not terminate military assistance to the Afghan resistance until the Soviets have indeed terminated their military occupation of Afghanistan and their very substantial military assistance program to their puppet regime in Kabul. The relevant clause of that resolution, which affected a change in policy in the administration of signal importance, was as follows: The Senate—

> Expresses its strong belief that the Government of the United States should not cease, suspend, diminish, or otherwise restrict assistance to the Afghan resistance or take actions which might limit the ability of the resistance to receive assistance until it is absolutely clear that the Soviets have terminated their military occupation, that they are not redeploying their forces to be inserted again, and that the Mujahadeen is well enough equipped to maintain its integrity during the delicate period of a transition government leading up to new elections.

The Soviets had apparently been led to believe by some that United States involvement, particularly material assistance, would terminate when the Soviets signed "guarantees" in Geneva that there would be no outside interference in Afghanistan's internal affairs. Such a guarantee, however, seemed to be taken by the Soviets to be one-sided, meaning that United States military assistance would cease, but that the bulk of Soviet assistance would continue. Such a proposition was anathema to the Senate and was decisively rejected as a result of Senate action. The President agreed with the Senate, and a major unresolved question of United States policy was put to rest decisively. This was perhaps the most instructive lesson of the impact that a bipartisan policy involving a consensus developed between the White House and the Senate may have—it is a success story, to date, that we can all justifiably take great pride in.

RELATIONS WITH BASE RIGHTS COUNTRIES

During the course of the 100th Congress, it became clear United States relations with the so-called "base rights countries," particularly Turkey, Greece, Spain, Portugal, and the Philippines, have become increasingly troubled. Just in the last 2 years, Spain ejected our F-16 squadron, Turkey held up ratification of the newly negotiated 5-year Defense and Economic Cooperation Agreement [DECA] for nearly a year, Greece has demanded the termination of our use of Helenikon airbase, Portugal has signaled its deep unhappiness with United States failure to provide "adequate" financial assistance, and the Philippines demanded—and will receive—greatly increased aid in return for continued use of the vital Clark and Subic bases. Although the administration is responsible for negotiating the terms of U.S. base rights in these countries, the Congress is becoming increasingly concerned and involved in this matter as countries demand greatly increased foreign aid.

Congressional action in one instance demonstrated the increasing importance of congressional attention to the state of relations with the base rights countries. In April 1987, Prime Minister Ozal decided not to ratify the DECA side letters which had been negotiated in December 1986 in response to negative congressional actions—introduction of the Armenian resolution in the House, Cyprus restrictions placed in the House and Senate foreign aid authorizing bills, and proposed reductions in Turkey's security assistance from the level proposed by the administration. As a further signal of Turkey's dissatisfaction, Turkey then canceled the visit of President Evren in May 1987.

This deterioration in relations between the United States and Turkey was serious. In light of the increasingly difficult situation with our other base allies, I undertook to help bring our relations back onto an even keel. To do this—to get Turkey to agree to ratify the DECA side letters—I worked hard to ensure that the legislative process did not adversely affect Turkey.

Through intensive efforts by a number of Senators concerned about United States/Turkey relations, several narrowly focused attacks on U.S. assistance programs to Turkey were rebuffed or modified in connection with the fiscal year 1988 continuing resolution. In addition, the continuing resolution included a provision for refinancing certain FMS debts, including arrearages—a provision of potentially great benefit to Turkey. Turkey's security assistance was maintained at the fiscal year 1987 level, although many countries were reduced. For fiscal year 1989, security assistance was increased slightly and economic support funds were earmarked to prevent reduction by the administration as had happened for fiscal year 1988.

In February 1988, a Senate delegation, which I led to the NATO countries to gauge sentiment toward the INF Treaty, visited Ankara to discuss the status of the relationship. We were extremely gratified that Prime Minister Ozal responded to my request for a normalization of the situation with assurances that Turkey would ratify the DECA and that the visit by President Evren would be rescheduled. The DECA side letters were signed shortly thereafter and President Evren visited the United States in June 1988.

This experience was a reminder of how important it is for both branches of our Government to pay close attention to the healthy management of our alliance relationship and to understand the impact that various legislative proposals can have on those relationships.

DEFENSE

The 100th Congress devoted considerable attention to the programs and the budget essential for our national defense. In each session of Congress, vigorous debates surrounded the consideration of the bills on the floor of the Senate. Action occurred on many issues which are largely extraneous to the Department of Defense and its budget. Prime among these, of course, is the issue of arms control.

The Senate acted in a responsible fashion during the 100th Congress to encourage a reluctant administration to pursue policies which would not make the achievement of strategic arms control agreements impossible. The Congress, after considerable debate in the Senate and a difficult conference with the House, arrived at an approach to the strategic defense initiative which kept the research program compliant with the so-called narrow interpretation of the ABM Treaty. At the same time, the funding for the SDI program was increased in both fiscal year 1988 and fiscal year 1989, one of the few programs to experience such growth. Similarly, the Congress insisted that the administration take actions which kept the United States from dramatically exceeding the SALT II limits on offensive nuclear weapons. This policy of restraint has permitted the modernization of our strategic weapons—such as the MX and the Trident II missiles—without providing the Soviet Union with an excuse to break out of the levels of nuclear warheads currently maintained.

The Congress also addressed the issues of management, waste, and organizational efficiency in the Department of Defense. The authorization bills contained numerous provisions designed to improve management efficiency and streamline DOD procedures. The current investigation into procurement fraud strongly suggests that still further measures will be necessary in the 101st Congress when the results of the ongoing investigation are known.

The Armed Services and Appropriations Committees faced difficult challenges in dealing with the defense budget. In each year, the amount of money available for national defense was insufficient to cover the cost of inflation. The budget which we have recently passed for fiscal year 1989 represents the fourth consecutive year of declines in the amount of money spent on defense, once the effects of inflation are taken into account. This forced the committees, and the Senate as a whole, to make difficult choices regarding priorities and programs to support—choices which will become even more severe in the next Congress.

An example of the responsible manner in which the Congress has addressed crucial choices provides ample contrast to the administration's false starts and false promises. For over 8 years, the Reagan administration has struggled with the problem of the vulnerability of our land-based missiles, but has been unable to come up with a workable solution. Initially, the administration embraced the Scowcroft Commission Report, which called for the development of a small, single-warhead missile to be based in a mobile and survivable mode. The administration also requested funding for the MX in a rail garrison mode—also mobile, but less survivable. The Congress has supported development of both the rail garrison system and the mobile small ICBM, but the Reagan administration's commitments have been less constant. Earlier this year, Secretary of Defense Carlucci recommended canceling the small missile, citing the costs, primarily. The logic of the Scowcroft Commission concerning strategic stability and the virtues of the single warhead missile was ignored.

The current situation is that Congress has recommended that both programs be kept alive with sufficient funding to enable the next administration to make the final determination. Whatever is decided, it will be clear that the Reagan administration has wasted time and countless billions while unable to solve the problems of vulnerability which they said were urgent more than 8 years ago. The Congress has addressed this issue in a responsible fashion, providing support and continuity in the face of administration vacillation and indecision.

The Congress stepped up to this task and, as a result of the hard bargaining of December 1988 which produced the so-called budget summit agreement, the administration finally joined in the recognition of the difficult choices being forced upon us by the huge Federal deficits run up in the Reagan years. Truth-in-budgeting resulting in a more realistic discussion of defense priorities in the fiscal year 1989 budget. Again, the Senate acted in a responsible way to maintain the pay and benefits of our personnel in uniform, to bolster our conventional defense capabilities, and to permit the needed modernization of our strategic forces. While difficult choices lie ahead, the groundwork laid by the 100th Congress will serve as a solid foundation for the next Congress in its consideration of defense issues.

TRADE WITH OUR MAJOR ALLIES

As work proceeded on the omnibus trade bill, I became more and more concerned about our increasingly volatile relationship with Japan as our trade deficit with Japan has zoomed and the administration's ineffective and wrongheaded approach to trade has caused increasingly bitter feelings on both sides of the Pacific. For instance, because of Japanese noncompliance with an agreement with the United States on fair competition in the world semiconductor market, the Senate passed, in March 1987, a resolution calling on the President to take steps against Japan's dumping of semiconductors on international markets. This finally prompted the President to take action and, 1 month later, he imposed tariffs of 300 million dollars' worth of Japanese imports in response to

Japan's violation of the agreement. Most of those sanctions are still in place today, but without congressional action, nothing would have been done.

I have long felt there has to be a better way to handle our economic relationship with Japan. When I met with Japanese Prime Minister Takeshita on January 14, 1988, I suggested that it would be a good idea if each country could undertake a separate study of the advantages and disadvantages of initiating negotiations toward a free trade area agreement between our two countries. Although our administration made it clear it had no intention of undertaking such a study, I requested, through the Finance Committee, that the International Trade Commission, an independent, bipartisan agency, study the matter. Their excellent report, "Pros and Cons of Initiating Negotiations with Japan to Explore the Possibility of a United States-Japan Free Trade Area Agreement," was released on September 21, 1988.

Many of the 122 officials and outside experts interviewed for the ITC study made it clear that the time has come for a comprehensive reassessment of the United States-Japan trade and economic relationship. There is a growing recognition in Japan as well that there are more productive ways to handle the American-Japanese relationship. To further the process, I wrote to Prime Minister Takeshita on September 30, 1988, to propose that the United States and Japan explore over the next 6 months possible frameworks for enhanced cooperation between our two countries.[3] Through my amendment to the tax technical corrections bill H.R. 4333, the administration is now required to set such an exploration in motion—to study the issue afresh, and come up with some recommendations about how we can arrange our relations with the Japanese in a more positive, less acrimonious manner.

On another important trade matter, the Congress passed legislation to implement the free trade agreement signed by the United States and Canada on January 2, 1988. The agreement provides that almost all tariffs between the United States and Canada will be eliminated within 10 years and establishes a binding binational dispute settlement panel for antidumping and countervailing duty cases. Other important provisions include liberalization of investment and services trade; and market opening measures for wine, some agricultural products, energy, and government procurement.

The House passed implementing legislation in August by a wide margin and the Senate did the same on September 19. The pact cannot go into effect—now scheduled for January 1, 1989—however, until the Canadian Parliament also passes implementing legislation. Canada's House of Commons approved the pact on August 31, but the Canadian Senate has refused to approve the agreement and has forced Prime Minister Mulroney to call a general election, which will take place November 21. The election is likely to represent a referendum on the free trade area agreement, which faces strong opposition in Canada.

The European Economic Community decided in February of this year to move toward an integrated internal market in Europe by

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[3] The letter from the Majority Leader, along with Prime Minister Takeshita's response of October 19, 1988 is included as Appendix 16.

1992. The Senate delegation which I led to NATO capitals was in Europe at the time, and it was clear to those of us observing this process first hand that this will be an event of great significance, not only for the European Community but for the United States as well. The integrated market will present the United States with tremendous challenges as well as tremendous opportunities. In order to understand and prepare for these developments, I feel it is extremely important for the next administration, working closely with the Congress and with the private sector, to initiate a dialog with members of the European Community to discuss the implications of the integration of the European Communities for U.S. trade and investment. Toward that end, I sponsored, along with the Senator from Delaware, Mr. Roth, Senate Resolution 491, which calls for such a dialog. The resolution was passed by the Senate on October 7, 1988.

UNFORTUNATE LAPSES OF INTEGRITY

The successful creation of a bipartisan foreign policy based on a shared consensus between the two branches suffered during the 100th Congress from events which called into question the good faith of this White House in working with the Congress.

The first of these instances had its origins in the closing days of the 99th Congress. Prior to the Reykjavik summit meeting between President Reagan and Soviet General Secretary Gorbachev, the Congress was in the midst of negotiating final details on the conference report for the Defense Authorization Act. Several controversial arms control issues were still in dispute, and the President argued that those provisions be dropped so that he might have the maximum flexibility and bipartisan support for his negotiations at Reykjavik. In return, he pledged, in a letter to the Congress, his support for the approval for ratification of the two nuclear testing treaties previously signed by the United States and the Soviet Union—the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty—as an item of high priority in the 100th Congress.

The Congress acceded to the President's request prior to Reykjavik, dropping the arms control items. The President, however, reneged on his pledge and did not support the ratification of the two treaties in the 100th Congress. They remain on the Senate Calendar. This unfulfilled promise not only resulted in no action on the treaties but did much to undermine my willingness to take the President at his word.

The second example was the context of Senate consideration of the INF Treaty. Considerable time was spent in working with the administration, with contributions from both sides of the aisle in the Senate, as well as the White House, to fashion an agreed approach or method of future interpretation of the provisions of the treaty. This process produced a bipartisan consensus, and a treaty condition, in the form of an amendment I offered on behalf of myself and other Senators to the resolution of ratification, was approved by a vote of 72–27, on May 27, 1988. Thus, the Senate consented to the ratification of the INF Treaty with the explicit understanding that its consent was "subject" to the "condition" that the treaty would not be interpreted in a manner different from that presented to the Senate. This condition, flowing as it did from a long dispute over the proper method of interpreting provisions of the ABM Treaty of 1972, was of key importance in the Senate's approval of the INF Treaty and, without it, there is very great doubt that the treaty would have been given Senate approval at all. I would have strongly opposed it. The President traveled to Moscow, and exchanged the instruments of ratification subject to this condition.

Incredibly, however, upon his return from Moscow, the President stated in a formal message to the Senate on June 10, that he did not consider himself bound by this condition. The President's views on this matter notwithstanding, the condition attached to the resolution of ratification by the Senate remains binding. The proposition by the President that he is not bound by the condition I regard as a matter of the utmost breach of trust between the two branches.

A third example of bad faith bargaining by the White House—although not one of constitutional gravity, as in the treaty interpretation matter—was in connection with the fashioning of a compromise regarding United States policy toward Nicaragua and aid to the Contras. The amendment which was fashioned this past August, following 2 weeks of laborious negotiations by participants from both sides of the aisle and with the White House, would have gone far to reach the consensus which has eluded us on this issue for many years. We in the Senate were led to believe that the compromise would be supported by the White House. However, our expectations were dashed and disappointed by the last minute withdrawal of the White House from the compromise—indeed, while the amendment was in fact pending on the Senate floor. The result was the necessity to pass the amendment by a strict party-line vote in the Senate, reducing substantially the long-term impact of the policy embodied in the amendment.

In these three important cases, the White House chose to shred what were serious commitments and compromises that it had entered into and to walk away from the consensus which had been formed after great labor. The results disappointed the development of true consensus on those matters in our Government. More important, they eroded the trust between the two branches which is so essential to constructing such consensus. I continue to believe that only through the development of consensus, based on good faith and the honoring of pledges and agreements arrived at through compromise by both branches, can we as a nation formulate sustainable foreign policies. It is my hope that the next administration will honor the commitments it enters into and that it will heal the distrust and disappointments engendered by these acts on the part of the current White House.

THE FUTURE

Mr. President, the Senators who have served in the 100th Congress can be proud of the responsible approach that has been taken to its foreign policy and national security agenda. Even so, much remains to be tackled and our time is about to expire. The 101st Congress has some formidable challenges to address.

First, the question of the proper relationship between the executive and legislative branches on how decisions are to be made regarding the committal of our military forces to conflicts or potential conflicts, to send our forces into combat or into situations where combat can reasonably be foreseen as a contingency, urgently needs to be addressed. The War Powers Resolution has not been adequate to this task and has not worked. As a result, a wide variety of resolutions and amendments have been offered, and sometimes adopted, attempting to address this question in lieu of a workable statutory mechanism. Of central importance, a satisfactory system of consultation and prior dialog prior to the commitment of U.S. forces to hostilities has not been developed.

I have offered one proposal to this problem, Senate Joint Resolution 323, cosponsored by Senators Nunn, Warner, and Mitchell. The Foreign Relations Committee has completed extensive hearings on this resolution and related proposals, and I believe action should be taken on this matter, in a deliberate and thoughtful way, and in close consultation with the next President, to formulate a more satisfactory consultative mechanism which adequately addresses the problems our country will face in the coming years.

Second, the two nuclear testing treaties between the United States and the Soviet Union, currently pending on the Executive Calendar, are unfinished business which was not addressed on the Senate floor, but which should be ripe for action early next year. These treaties, which President Reagan promised to support during the 100th Congress, but then withdrew his commitment, are a contribution to building an effective arms control regime between the superpowers. They are awaiting completion of additional verification procedures between the two countries. Such a relatively simple matter, in comparison to the verification questions which are involved in a satisfactory strategic arms or START Treaty, should have been completed long ago. One would think that the administration could close this problem, and lack of closure leads me to question how much progress this administration has made on verification of arms reductions. It will help to give the Senate confidence on the quality of the provisions of any verification regime associated with a START Treaty if the testing treaties can be disposed of in the next Congress.

Third, Mr. President, the Senate needs to take a fresh look at our basing arrangements with our friends and allies around the world. We have weathered difficult negotiations with Spain. The agreement which was concluded, while satisfactory in many respects and while removing Spain from the list of security assistance recipients, nevertheless forced the relocation of an important NATO aircraft squadron, the U.S. F-16's. Fortunately, Italy agreed to base these aircraft, but the relocation entails additional costs for NATO.

The negotiations with the Philippines have been particularly complex. The agreement signed on October 17, 1988, for continued use of the Clark and Subic bases until 1991 makes it clear that the costs will increase substantially. We face similar, perhaps even more problematic, difficulties in the ongoing negotiations with

Greece. In addition to these three cases, in general, we are not providing the kind of support that we should be providing to countries like Portugal, Oman, Turkey, and others, while a selected few cases receive very generous and costly support. We need to revisit in detail the state of our alliance facilities and the facilities we share in various ways with friendly countries which are not necessarily part of our formal alliances. As a nation with farflung responsibilities, it is important that we care for and nurture these relationships, and that appropriate levels of assistance be provided to maintain the health of our relationships across the globe.

Fourth, the Senate followed up the Iran-Contra investigation with appropriate legislation, amending the statutes that deal with covert activities and the special relationship between the executive branch and Congress in this area, but the House did not pass that legislation. Given the importance of this matter, I encourage the Intelligence Committee to report such legislation again for action by the full Senate as soon as possible in the next Congress so that there is time for a conference committee to act and send that measure to the President.

Fifth, while we passed major trade legislation, the implementation of that legislation will be a major task, and very close oversight of the critical provisions designed to reduce America's deficits will be required. The Congress expects and intends that the new authority that we have given the United States Trade Representative to identify countries which engage in unfair trade practices (or so-called priority countries) and major barriers, whether they are at the border or internal to a nation's economy (so-called priority barriers), will be implemented in practice and that firm actions will be taken.

Sixth, the ad hoc mechanism which has proved valuable to regularizing the interchange between the executive and legislative branches on arms control, the Senate Arms Control Observer Group, has already been reauthorized. Its mandate has been expanded to include active oversight of conventional and chemical arms reduction negotiations between the superpowers, in addition to strategic arms reductions. A similar mechanism has been provided in the trade bill, the appointment of an advisory group on trade negotiations, the members of which will be accredited to the various international talks conducted on trade, from the GATT negotiations to other bilateral and other multilateral talks. While these mechanisms are not intended to substitute for the oversight and legislative authority of the Senate committees of jurisdiction, they can serve as a useful supplement to those committees, and hone in on enduring problems in a way that those major problems deserve.

Seventh, we must redouble our efforts regarding the southern part of our hemisphere. The Senate should continue with this year's efforts to fashion a more realistic and effective foreign policy toward our neighbors in Mexico, Central and South America. Too much time and legislative endeavor have gone into a narrowly focused, one-track administration military-oriented policy as a way of confronting the Sandinista regime. This overemphasis on one element of our hemispheric foreign policy at the expense of diplomatic negotiations has resulted in a lack of adequate attention to the many serious social and economic problems faced by neighboring

Mexico and nascent democratic governments in South America. The next Congress needs to place increased emphasis and attention on working with a new administration to develop a more comprehensive, cooperative, and understanding bipartisan foreign policy toward the democratic countries of Latin America.

Eighth, Mr. President, renewed attention must be paid to the health and progress of our alliance relationships with NATO and Japan. These relationships are of vital importance to our national security and our economic well being. They are in the process of growth, of evolution, and they need the constant care and attention of the Congress. Instead of assigning blame for the real or perceived deficiencies of our allies in the area we term "burdensharing," positive and dynamic leadership is needed by the United States to bring those relationships into an equitable balance, a fair sharing of both burdens and powers. In order to do this, renewed dialog and understanding among our partners are needed. Significant steps were taken in this direction in the recently passed defense appropriations bill. Many Senators have been playing active and responsible roles in the development of these new relationships, and I believe that the 101st Congress will continue to place priority attention and take actions where necessary to achieve new understandings with our allies on these matters.

In all these tasks, and others that I have not even touched upon, the Senate will be faced with an array of challenges. I am convinced that the Senate will continue to work diligently and with an eye toward the building of a strong consensus with the next President around policies of enduring value in the national security and foreign policy arenas.

APPENDIX 1

100TH CONGRESS
1ST SESSION

S. RES. 23

Establishing a select committee of the Senate to conduct an investigation and study of activities by the National Security Council and other agencies of the United States Government with respect to the direct or indirect sale, shipment, or other provision of arms to Iran and the use of the proceeds from any such transaction to provide assistance to any faction or insurgency in Nicaragua or in any other foreign country, or to further any other purpose, and related matters.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 1987

Mr. BYRD (for himself, Mr. DOLE, Mr. INOUYE, and Mr. RUDMAN) submitted the following resolution; which was considered, modified, and agreed to

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RESOLUTION

Establishing a select committee of the Senate to conduct an investigation and study of activities by the National Security Council and other agencies of the United States Government with respect to the direct or indirect sale, shipment, or other provision of arms to Iran and the use of the proceeds from any such transaction to provide assistance to any faction or insurgency in Nicaragua or in any other foreign country, or to further any other purpose, and related matters.

Resolved,

ESTABLISHMENT OF THE SELECT COMMITTEE

SECTION 1. (a) There is established a select committee of the Senate to be known as the Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition (hereafter in this resolution referred to as the "select committee").

(b) The purpose of the select committee is—

(1) to conduct an investigation into, and study of, all matters which have any tendency to reveal the full facts about—

(A) any activity of—

(i) the National Security Council or of any member or staff thereof,

(ii) any other department, agency, or entity of the United States Government or of any officer or employee thereof,

(iii) any foreign government, or of any agency or instrumentality thereof, or of any officer or employee thereof, or

(iv) any other individual, group, corporation, entity, or organization,

which relates to—

(I) the direct or indirect sale, shipment, or other provision of arms, or the direct or indirect provision of materiel, funds, or other assistance, to Iran,

(II) the use of the proceeds from any transaction described in subclause (I) to provide assistance to any faction or insurgency in Nicaragua or in any other foreign country, or to further any political purpose or activity within the United States, or to further any other purpose of any nature whatsoever,

(III) the generation and use of any other money, item of value, or service to provide assistance to the Nicaraguan democratic resistance, or

(IV) the provision of coordination of support for persons or entities engaged as insurgents in armed conflict with the Government of Nicaragua,

in order to determine whether any such activity was illegal, improper, unauthorized, or unethical;

(B) any other activity, circumstance, material, or transaction having a tendency to prove or disprove that any official of the United States Government, or any other person, acting either individually or in combination with others, engaged in any activity which was illegal, improper, unauthorized, or unethical, in connection with any activity described in subclause (I), (II), (III), or (IV) of clause (A) or in connection with the operations described in clause (C); and

(C) the suitability of the structure and operations of the National Security Council, and persons serving as staff, consultants, or agents thereto, for any function related to the formulation, implementation, or conduct of American national security policy; and

(2)(A) to make such findings of fact as are warranted and appropriate;

(B) to make such recommendations, including recommendations for new legislation and amendments to existing laws and any administrative or other actions, as the select committee may determine to be necessary or desirable; and

(C) to fulfill the Constitutional oversight and informing function of the Congress with respect to the matters described in this section.

(c) For purposes of this section, the term "Iran" includes the Government of Iran, any agency or instrumentality thereof, any officer or employee thereof, or any person purporting to represent the Government of Iran or any agency or instrumentality thereof, any national of Iran, or any person located in Iran.

MEMBERSHIP AND ORGANIZATION OF THE SELECT COMMITTEE

SEC. 2. (a)(1) The select committee shall consist of eleven members of the Senate, six of whom shall be appointed by the President pro tempore of the Senate from the majority party of the Senate upon the recommendation of the Majority Leader of the Senate, and five of whom shall be appointed by the President pro tempore of the Senate from the minority party of the Senate upon the recommendation of the Minority Leader of the Senate.

(2) Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee and shall be filled in the same manner as original appointments to it are made.

(3) For the purpose of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member, chairman, or vice chairman of the select committee shall not be taken into account.

(b)(1) The chairman of the select committee shall be selected by the Majority Leader of the Senate and the vice chairman of the select committee shall be selected by the Minority Leader of the Senate. The vice chairman shall discharge such responsibilities as the select committee or the chairman may assign.

(2) A majority of the voting members of the select committee shall constitute a quorum for reporting a matter or recommendation to the Senate, except that the select committee may fix a lesser number as a quorum for the purpose of taking testimony before the select committee or for conducting the other business of the select committee.

(c)(1) The select committee shall promptly adopt rules and procedures not inconsistent with the rules and procedures of the Senate.

(2) The rules and procedures of the select committee shall—

(A) govern the proceedings of the select committee; and

(B) consistent with section 6 of this resolution—

(i) provide for the security of the records of the select committee and the protection of classified information and materials; and

(ii) prevent the unauthorized disclosure of information and materials obtained by the select committee in the course of its investigation and study.

STAFF OF THE SELECT COMMITTEE

SEC. 3. (a)(1) To assist the select committee in its investigation and study, the chairman, after consultation with the vice chairman and the approval of the select committee, shall appoint the committee staff.

(2) All staff shall work for the select committee as a whole, shall report to the chairman and vice chairman and, except as otherwise provided by the select committee, shall be under the direction of the chairman.

(b) To assist the select committee in its investigation and study, the Senate Legal Counsel and Deputy Senate Legal Counsel shall work with and under the jurisdiction and authority of the select committee.

(c) The Majority and Minority leaders of the Senate may each designate one staff person to serve on the staff of the select committee to serve as their liaison to the select committee.

(d) The Comptroller General of the United States is requested to provide from the General Accounting Office whatever personnel, investigatory, material, or other appropriate assistance may be required by the select committee.

PUBLIC ACTIVITIES OF THE COMMITTEE

SEC. 4. (a) Consistent with—

(1) the rights of persons subject to investigation and inquiry,

(2) considerations of national security, including the protection of sources and methods of intelligence gathering and analysis, and

(3) the interests of the relationship of the United States with other nations,

the select committee shall make every effort to fulfill the right of the public and the Congress to know the essential facts and implications of the activities of officials of the United States Government and other persons and entities with respect to the matters under investigation and study as described in section 1.

(b) In furtherance of the public's and Congress' right to know, the select committee—

(1) shall hold, as it considers appropriate, open hearings;

(2) may make interim reports to the Senate as it considers appropriate; and

(3) shall make a final comprehensive public report to the Senate which contains a description of all relevant factual determinations consistent with subsection (a) of this section and section 1(b)(2) and which contains recommendations for new legislation and other actions pursuant to the goal of an open, lawful, and effective conduct of American national security policy and, when necessary, lawful intelligence activities in support of American national security policy.

(c) The decision as to what matters shall be heard in closed or open session shall be determined by the select committee in accordance with paragraph 5(b) of rule XXVI of the Standing Rules of the Senate.

POWERS OF THE SELECT COMMITTEE

SEC. 5. (a) The select committee shall do everything necessary and appropriate under the laws and Constitution of the United States to make the investigation and study specified in section 1.

(b) The select committee is authorized to issue subpoenas for obtaining testimony and for the production of documentary or physical evidence. A subpoena may be authorized and issued by the select committee, acting through the chairman or any other member designated by the chairman, and may be served by any person designated by such chairman or other member anywhere within or without the borders of the United States to the full extent permitted by law. The chairman of the select committee, or any other member thereof, is authorized to administer oaths to any witnesses appearing before the committee.

(c) The select committee may exercise the powers conferred upon committees of the Senate by sections 6002 and 6005 of title 18, United States Code.

(d) The select committee is authorized to do the following:

(1) To employ and fix the compensation of such clerical, investigatory, legal, technical, and other as-

sistants as the select committee considers necessary or appropriate.

(2) To sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

(3) To hold hearings for taking testimony under oath or to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study.

(4) To require by subpoena or order the attendance, as witnesses before the select committee or at depositions, of any person who may have knowledge or information concerning any of the matters the select committee is authorized to investigate and study.

(5) To take depositions and other testimony under oath anywhere within the United States or in any other country, to issue orders by the chairman or any other member designated by the chairman which require witnesses to answer written interrogatories under oath, to make application for issuance of letters rogatory, and to request, through appropriate channels, other means of international assistance, as appropriate.

(6) To issue commissions and to notice depositions for staff members to examine witnesses and to receive evidence under oath administered by an individual authorized by local law to administer oaths. The select

committee, acting through the chairman, may authorize and issue, and may delegate to designated staff members the power to authorize and issue, commissions and deposition notices.

(7) To require by subpoena or order—

(A) any department, agency, entity, officer, or employee of the United States Government,

(B) any person or entity purporting to act under color or authority of State or local law, or

(C) any private person, firm, corporation, partnership, or other organization,

to produce for its consideration or for use as evidence in the investigation or study of the select committee any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material relating to any of the matters or questions such committee is authorized to investigate and study which they or any of them may have in their custody or under their control.

(8) To make to the Senate any recommendations, including recommendations for criminal or civil enforcement, which the select committee may consider appropriate with respect to—

(A) the willful failure or refusal of any person to appear before it, or at a deposition, or to answer interrogatories, in obedience to a subpoena or order;

(B) the willful failure or refusal of any person to answer questions or give testimony during his appearance as a witness before such committee, or at a deposition, or in response to interrogatories; or

(C) the willful failure or refusal of—

(i) any officer or employee of the United States Government,

(ii) any person or entity purporting to act under color or authority of State or local law, or

(iii) any private person, partnership, firm, corporation, or organization,

to produce before the committee, or at a deposition, or at any time or place designated by the committee, any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material in obedience to any subpoena or order.

(9) To procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)).

(10) To use on a reimbursable basis, with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration of the Senate, the services of personnel of such department or agency.

(11) To use, with the prior consent of the chairman of any other Senate committee or the chairman of any subcommittee of any committee of the Senate, the facilities or services of any members of the staff of such other Senate committee whenever the select committee or its chairman considers that such action is necessary or appropriate to enable the select committee to make the investigation and study provided for in this resolution.

(12) To have access through the agency of any members of the select committee, staff director, chief counsel, or any of its investigatory assistants designated by the chairman, to any data, evidence, information, report, analysis, document, or paper—

(A) which relates to any of the matters or questions which the select committee is authorized to investigate or study;

(B) which is in the custody or under the control of any department, agency, entity, officer, or employee of the United States Government, including those which have—

(i) the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States; or

(ii) the authority to, or which in fact has, conducted intelligence gathering or intelligence activities,

without regard to the jurisdiction or authority of any other Senate committee; and

(C) which will aid the select committee to prepare for or conduct the investigation and study authorized and directed by this resolution.

(13) To report violations of any law to the appropriate Federal, State, or local authorities.

(14) To expend, to the extent the select committee determines necessary and appropriate, any moneys made available to such committee by the Senate to

make the investigation, study, and reports authorized by this resolution.

(e) The level of compensation payable to any employee of the select committee shall not be subject to any limitation on compensation otherwise applicable to an employee of the Senate.

PROTECTION OF CONFIDENTIAL AND CLASSIFIED INFORMATION

SEC. 6. (a)(1) Before being given access to any classified information, any member of the staff of, or consultant to, the select committee shall have the appropriate security clearance and a need to know such information. The chairman of the select committee shall decide which select committee staff members and consultants are required to have security clearances.

(2) All staff members and consultants shall, as a condition of employment, agree in writing to abide by the conditions of an appropriate nondisclosure agreement promulgated by the select committee.

(3) The case of any Senator who violates the security procedures of the select committee may be referred to the Select Committee on Ethics of the Senate for the imposition of sanctions in accordance with the rules of the Senate. Any staff member or consultant who violates the security procedures of the select committee shall immediately be subject to removal from office or employment with the select committee

or shall be subject to such other sanction as may be provided in the rules of the select committee.

(b)(1) Any classified information obtained by the select committee either directly from the Executive branch of the United States Government, through the Select Committee on Intelligence of the Senate, or by other means, shall be disclosed only in the same manner in which such information may be disclosed under the provisions of section 8 of Senate Resolution 400 (Ninety-fourth Congress, second session), except that references to the Select Committee on Intelligence in such section shall be deemed to be references to the select committee established under this resolution.

(2) The select committee shall make suitable arrangements, in consultation with the Select Committee on Intelligence of the Senate, for the physical protection and storage or classified information provided to the select committee.

(3) Upon the termination of the select committee pursuant to section 9 of this resolution, all records, files, documents, and other materials in the possession, custody, or control of the select committee, under appropriate conditions established by such committee, shall be transferred to the Select Committee on Intelligence of the Senate.

RELATION TO OTHER INVESTIGATIONS

SEC. 7. (a) In order to—

(1) expedite the thorough conduct of the investigation and study authorized by this resolution,

(2) promote efficiency among all the various investigations underway in all branches of the United States Government, and

(3) engender a high degree of confidence on the part of the public regarding the conduct of such investigation,

the select committee is encouraged—

(A) to seek the full cooperation of all relevant investigatory bodies, and

(B) to seek access to all information which is acquired and developed by such bodies.

(b)(1) The Select Committee on Intelligence is hereby directed to prepare and provide to the select committee, in closed session a report of its investigation into matters described in section 1 of this resolution, which report shall include a summary of the testimony and chronology of events developed by the Select Committee on Intelligence, together with a listing of unresolved questions and issues which it recommends be pursued by the select committee as soon as possible, and the select committee may release as much of the information in such report to the public as it deems advisable, consistent with the interest of the public and national security, and is deemed by the committee to be in the public interest after a determination by such committee that the public interest would be served by such disclosure.

(2) The select committee, through its members and appropriate staff, shall be provided full access to all records, files, documents and other materials in the possession, custody, or control of the Select Committee on Intelligence of the Senate, obtained or produced by the Select Committee on Intelligence of the Senate with respect to any matter described in section 1 of this resolution.

(3) All subpoenas issued by the Select Committee on Intelligence of the Senate on any matter described in section 1 of this resolution shall continue in force and may be enforced by the select committee as if issued by the select committee.

(c) The Senate requests that any independent counsel appointed pursuant to chapter 39 of title 28, United States Code, to investigate any matter related to a matter described in section 1 of this resolution, make available to the select committee, as expeditiously as possible, all documents and information which may assist the select committee in its investigation and study.

SALARIES AND EXPENSES

SEC. 8. Such sums as are necessary shall be available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations for payment of salaries and other expenses of the select committee under this resolution, which shall include sums which shall be available for the procurement of the services of individual consultants or organizations thereof, in accordance with section 5(d)(9). Payment of expenses shall be disbursed upon vouchers approved by the chairman of the select committee, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.

REPORTS; TERMINATION

SEC. 9. (a)(1) The select committee shall make a final public report to the Senate of the results of the investigation and study conducted by such committee pursuant to this resolution, together with its findings and any recommendations at the earliest practicable date, but not later than August 1, 1987: *Provided,* That on or before August 1, 1987 a privileged motion made by the majority leader, to be debatable for no more than 1 hour, in the usual form, shall be in order, namely, "I move that the time be extended from August 1, 1987 to October 30, 1987 for the investigation by and final report of the select committee." The select committee shall also submit to the Senate such interim reports as it considers appropriate.

(2) The final report of the select committee may be accompanied by whatever classified or confidential annexes are necessary to protect classified or confidential information, particularly intelligence sources and methods.

(b) After submission of its final report, the select committee shall conclude its business and close out its affairs as expeditiously as practicable.

APPENDIX 2

PERSIAN GULF AMENDMENT

AMENDMENT NO. 209

(Purpose: To require a report on security arrangements in the Persian Gulf prior to implementing any agreement for United States military protection of Kuwaiti shipping)

Mr. BYRD. Mr. President, I have an amendment which Senator Dole and I will join in offering.

The events surrounding the unprovoked attack on the U.S.S. *Stark* have raised questions about the appropriate role for the United States in the Persian Gulf and about how that role can most effectively and prudently be implemented.

The administration is in the final stages of reaching an agreement with the Government of Kuwait regarding an arrangement whereby United States warships would escort Kuwaiti tankers transiting to and from Kuwait through the Persian Gulf.

I think it is appropriate under current circumstances for us to carry out such a role in support of Kuwait's interest, as a friend of Kuwait, and also in our own interest, and as a measure of our steadfastness in keeping the gulf open, in support of friendly states bordering on the gulf such as Oman, United Arab Emirates, Saudi Arabia, Qatar, and others. Nevertheless, the Persian Gulf is a hostile environment caused primarily by the war between Iran and Iraq and by increasingly aggressive behavior on the part of Iran toward Kuwait. It our operations are not conducted in such a way as to recognize the gravity of the threats that face our warships and our military personnel, and if appropriate measures are not now taken to prepare for all possible contingencies, then we should think twice, and perhaps three times, about putting ourselves in harm's way.

What specific measures am I talking about? First, the rules of engagement whereby our naval skippers have guidance as to when they can defend themselves with their weapons systems must be changed to recognize the threats that are in the gulf, primarily threats of missiles launched both from aircraft and shore installations. This means that the alert status, the readiness conditions of our forces will have to be upgraded. Even without the final detailed analysis now being conducted by the Navy, circumstances of the *Stark* attack certainly lead one to this obvious conclusion.

Second, cooperation with our friends and allies in the region to protect our men and equipment and to upgrade our operational effectiveness should be pursued.

The White House admitted yesterday that, in fact, there were no prearranged plans for the Saudi Air Force to come to the aid of United States vessels in the gulf. Why not? Is it not reasonable to expect that some clearly defined cooperative arrangement be in place with the Saudis, to whom we have provided top-of-the-line military hardware and are talking about providing more of the same?

Similarly, the French and the British, both of whom have regularly deployed warships to the gulf and the Arabian Sea, might reasonably be expected to join with us in cooperative arrangements. After all, oil from Kuwait goes to those nations as well as to Japan, and it goes to other European nations. The United States should not be expected to carry the lion's share of the burden of security arrangements in the gulf. Our allies and our friends in Europe and in the Persian Gulf area all have a stake in peacekeeping arrangements. So, I believe that the administration should move to develop such cooperative arrangements.

Third, the cooperative arrangements I have just described should be extended to appropriate air cover for our vessels. Air cover provides a layer of protection for our warships that can deter or, if deterrence fails, interdict hostile activity directed at our ships and the ships of our allies and friends. Certainly, it would be desirable to have land-based air arrangements with Saudi Arabia and other gulf States. If we are going to protect other ships, we want to protect our own. And, importantly, the administration, if it is to expect support on its agreement with Kuwait to protect oil tankers from Iranian attack, needs to demonstrate an overall coherent strategy for accomplishing this mission with more than a questionable margin of security. If we have to err, it should be on the side of extra security, extra protection for our men and women in uniform, and our ships.

We also need to demonstrate to the world that we can, indeed, operate in the Middle East and the Third World effectively and that we know what we are doing.

I spoke to Secretary Weinberger on these matters yesterday morning, and he assured me that the administration is reassessing the need for air cover in the gulf and is going to attempt to develop cooperative arrangements with other powers to share the air cover burden and the overall security burden. That is welcome news.

The White House, according to reports today, is in a major internal battle over whether to report to Congress under the War Powers Resolution. There is nothing productive right now about a fight over what authority the administration reports to the Congress. The issue at this time is how to avoid a repetition of the *Stark* tragedy and pursue American interests in the Persian Gulf, and be ready and well prepared in advance to avoid the repetition of that tragedy.

The resolution which Mr. Dole and I are joining in introducing addresses the realities of security in the gulf and where and how American power and influence are going there. It requires a report as expeditiously as possible so that the Congress and the American people are confident of our policy and confident of our approach.

So, Mr. President, our country is again faced with the question of credibility, effectiveness, and forethought in the Middle East. I believe it is appropriate to ask the administration to provide the Congress with a full report on the security program I have outlined, both in classified and unclassified forms, before we implement any agreement with the Kuwait Government for protection of oil tankers in that very, very hostile environment. I think that the requirement for such a report should be acted upon today.

This amendment would require a report on security arrangements in the Persian Gulf prior to implementing any agreement for United States military protection of Kuwaiti shipping. It would call upon the Secretary of Defense to submit such a report to the Congress in appropriately classified and unclassified form.

I believe the distinguished Republican leader wishes to speak on this amendment. In the meantime, I ask unanimous consent that the pending committee amendments be set aside and that Mr. Dole and I may offer this amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from West Virginia [Mr. Byrd], for himself, Mr. Dole, Mr. Sasser, and Mr. Murkowski proposes an amendment numbered 209:
>
> At the appropriate place, insert the following:
>
> SEC. . Prior to the implementation of any agreement between the government of the United States and Kuwait for United States military protection of Kuwaiti shipping, the Secretary of Defense shall submit a report to the Congress, in appropriate classified and unclassified form, which includes a plan which fully meets the security needs of our forces, in conjunction with the forces of our friends and allies in the Persian Gulf region, and specifically addresses, at a minium:
>
> (a) an assessment of the threats to American forces, to Kuwaiti interests and shipping, and otherwise impacting on the interests of the United States and its friends and allies in the Persian Gulf region;
>
> (b) the Rules of Engagement, alert status and readiness conditions under which our military forces will operate under in the Persian Gulf, and when such conditions will be in force;
>
> (c) cooperative arrangements entered into, being negotiated or contemplated with our European allies with a stake in the Persian Gulf, who have forces deployed or planned for deployment in the Persian Gulf region, and with states littoral to the Persian Gulf for a shared security system, including provision for air cover of those forces.

The PRESIDING OFFICER. Under the previous order, the amendment is set aside.

The result was announced—yeas 91, nays 5, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—91

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Helms

Hollings
Humphrey
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stennis
Stevens
Thurmond
Trible
Warner
Wilson
Wirth

NAYS—5

Johnston
McClure
Nickles
Symms
Wallop

APPENDIX 3

100TH CONGRESS
1ST SESSION

S. J. RES. 194

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 1987

Referred jointly to the Committees on Foreign Affairs and Rules

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JOINT RESOLUTION

To require a comprehensive review of United States policy and commitments in the Persian Gulf region.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) FINDINGS.—

(1) The Congress determines that the circumstances now existing in the Persian Gulf region, including the incidents involving United States military forces on September 21, 1987, and October 8, 1987, and October 19, 1987, justify an administration report and a comprehensive congressional review of the use of United States military forces in that region.

(2) The Congress expresses support for a continued United States presence in the Persian Gulf region and the right of nonbelligerent shipping to free passage in this region.

(3) Congress continues to express reservations about the convoy and escort operations of United States naval vessels in connection with tankers reregistered under the United States flag.

(b) Within sixty days after the date of enactment of this Act, the President shall submit a report to the Congress in classified and unclassified form. The report shall provide a complete review of the range of United States commitments and military involvements in the Persian Gulf region, including a discussion of the policy of escorting vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987, and which are or were registered under the flag of the United States. This report shall also include a discussion of the following:

(1) the extent to which the policy of protecting reregistered vessels supports United States regional strategy;

(2) the anticipated duration of the operation;

(3) the objectives of the escorting operation and how the administration measures progress toward those objectives;

(4) the funds which have been expended to date on the escort operation and the anticipated future requests for funds, including any request for reimbursement of previously expended funds;

(5) the impact of these operations on the diplomatic efforts to achieve a negotiated settlement of the Iran-Iraq war;

(6) the commitments which have been made, if any, by other governments to support this operation, and the commitments, if any, which have been made by the United States to those governments; and

(7) the impact these operations have had on the operational deployments and readiness of United States forces in other regions.

(c) Within thirty days after the report required by paragraph (b) is submitted, or should have been submitted, or on the first day of session thereafter, whichever is later, a resolution, if such resolution is introduced, shall be acted upon in accordance with subsection (d) below.

(d)(1) The provisions of this subsection shall apply to the introduction and consideration in a House of Congress of a joint resolution introduced pursuant to subsection (c).

(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution, the matter after the resolving clause of which shall pertain to the matters identi-

fied in subsections (b)(1) through (b)(7) above, as Congress shall determine, and may address such other matters related to policy and commitments in the Persian Gulf region, as Congress shall then deem warranted, and which is introduced within three session days after the date on which the report of the President described in subsection (c) is received or should have been received, by Congress.

(3) For purposes of this subsection, the term "session days" means days on which the respective House of Congress is in session.

(4) A joint resolution introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the eighth session day after its introduction.

(5) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of fifteen session days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House involved.

(6)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged under paragraph (3) from further consideration of such joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the consideration of the joint resolution are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House until disposed of. If any such motion to proceed is agreed to, it shall not be in order to move to proceed to the consideration of any other such resolution introduced in that House.

(B) Consideration of the joint resolution, and all amendments and debatable motions in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between and controlled by the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. Amendments which are germane and relevant to the joint resolution are in order under a two-hour time limitation for each amendment within the ten-hour time limitation, an amendment which may be offered by the Minority Leader, is in order under a one-hour time limitation. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(7) If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on the final passage shall be on the joint resolution of the other House, if such resolutions are identical, or on the joint resolution of the other House if not identical, with the text of the resolution of the first House deemed inserted in lieu of the text of the resolution of the second House.

(C) all motions required for the disposition of amendments between the Houses shall be deemed without debate. Debate on a conference report on any such joint resolution shall be limited to one hour.

(8) This subsection is enacted by the Congress—

(A) as an exercise of rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(e) For purposes of this section, the term "reregistered vessels" means vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987, and which are currently or were formerly registered under the law of the United States.

SEC. 2. Notwithstanding any other provision of this joint resolution, when the time for debate on a resolution considered under this resolution has been used or yielded back, no further amendments may be proposed, and the vote shall occur without any intervening motion or amendment on the adoption of the resolution.

SEC. 3. It is the sense of the Senate that the Senate express its approval and support of the President's actions of October 19, making an appropriate and carefully considered response to the Iranian attack on a United States-flagged ship in Kuwaiti waters on October 16, 1987, and that the Senate strongly endorses these actions as a firm indication of the United States resolve that the Iranian government cannot take military action against the United States with impunity.

SEC. 4. Nothing in this resolution should be construed as limiting the President's constitutional powers as Commander-in-Chief to utilize American military forces in self-defense operations, or as urging the withdrawal of American military forces from the Persian Gulf region.

SEC. 5. Notwithstanding any other provision of this resolution, the report required to be submitted by the President within sixty days after enactment of this joint resolution, shall be required to be submitted within thirty days after enactment.

SEC. 6. Notwithstanding any language or title of this resolution, nothing contained herein shall be construed as complying with, modifying or negating any provision of the War Powers Resolution of 1973 (Public Law 93–148).

SEC. 7. Nothing in this resolution shall prohibit the United States Navy from sinking any Iranian vessel, destroying any Iranian missile battery, or neutralizing any Iranian installation which threatens the safe passage of any American warship or of any other vessel known to have on board any citizen of the United States of America: *Provided further,* That nothing in this resolution shall be interpreted or construed in any manner which is inconsistent with the proposition that the United States, as a maritime power, has a preeminent interest in the freedom of the seas and in taking such actions as are necessary to maintain such freedom.

Passed the Senate October 21 (legislative day, October 16), 1987.

Attest: WALTER J. STEWART,
Secretary.

APPENDIX 4

100TH CONGRESS
2D SESSION

S. J. RES. 323

Amending the War Powers Resolution to provide expedited procedures for legislation requiring the disengagement of United States Armed Forces involved in hostilities or providing specific authorization for their continued engagement in such hostilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 19 (legislative day, MAY 18), 1988

Mr. BYRD (for himself, Mr. NUNN, Mr. WARNER, and Mr. MITCHELL) introduced the following joint resolution; which was read twice and referred to the Committee on Foreign Relations

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JOINT RESOLUTION

Amending the War Powers Resolution to provide expedited procedures for legislation requiring the disengagement of United States Armed Forces involved in hostilities or providing specific authorization for their continued engagement in such hostilities, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This joint resolution may be referred to as the "War Powers Resolution Amendments of 1988".

SEC. 2. REPEAL.

Section 2(c) of the War Powers Resolution (50 U.S.C. 1541(c); Public Law 93–148), relating to the exercise of war powers by the President under the Constitution, is repealed.

SEC. 3. PERMANENT CONSULTATIVE GROUP.

Section 3 of the War Powers Resolution (50 U.S.C. 1542) is amended—

(1) by inserting "(a)" after "Sec. 3."; and

(2) by adding at the end thereof the following new subsections:

"(b)(1)(A) Except as provided in paragraph (2), in every instance in which consultation is provided under subsection (a), the President shall consult with—

"(i) the Speaker of the House of Representatives and the President pro tempore of the Senate; and

"(ii) the Majority Leader and the Minority Leader of the House of Representatives and the Majority Leader and the Minority Leader of the Senate.

"(B) In order to ensure adequate consultation on vital national security issues, the President and the Members of Congress listed in subparagraph (A) shall establish a schedule of regular meetings of those Members with the President.

"(2) Whenever a majority of the Members listed in paragraph (1)(A) so request, the President shall consult with the permanent consultative group established under subsection (c) unless the President determines that limiting consultation to the Members listed in paragraph (1)(A) is essential to meet extraordinary circumstances affecting the most vital security interests of the United States.

"(c)(1) There is established within the Congress a permanent consultative group composed of—

"(A) the Speaker of the House of Representatives and the President pro tempore of the Senate;

"(B) the Majority Leader and the Minority Leader of the House of Representatives and the Majority Leader and the Minority Leader of the Senate;

"(C) the chairman and ranking minority member of each of the following committees of the House of Representatives:

"(i) the Committee on Foreign Affairs;

"(ii) the Committee on Armed Services; and

"(iii) the Permanent Select Committee on Intelligence; and

"(D) the chairman and ranking minority member of each of the following committees of the Senate:

"(i) the Committee on Foreign Relations;

"(ii) the Committee on Armed Services; and

"(iii) the Select Committee on Intelligence.

"(2) During odd-numbered Congresses, the Speaker of the House of Representatives shall serve as Chairman of the permanent consultative group and the Majority Leader of the

Senate shall serve as Vice Chairman. During even-numbered Congresses, the Majority Leader of the Senate shall serve as Chairman and the Speaker of the House of Representatives shall serve as Vice Chairman.

"(d)(1)(A) In addition to the consultations provided for in subsection (b)(2), the permanent consultative group shall hold such meetings as may be necessary to carry out its responsibilities under section 5(b) whenever called by the Chairman or, in his absence, the Vice Chairman or, in accordance with subparagraph (B), a majority of the membership of the permanent consultative group.

"(B)(i) If a majority of the membership of the permanent consultative group desires the Chairman or, in his absence, the Vice Chairman to call a meeting of the group, such members may file with the Clerk of the House of Representatives and the Secretary of the Senate or their designees a written petition, signed by a majority of the membership of such group, requesting the calling of such meeting, and the Clerk and the Secretary shall make every effort to notify the Chairman or, in his absence, the Vice Chairman of that request.

"(ii) If, within 3 calendar days after the filing of the petition, the Chairman or, in his absence, the Vice Chairman does not call the requested meeting, to be held within 6 calendar days after the filing of the petition, a majority of the membership of the group may file with the Clerk of the

House of Representatives and the Secretary of the Senate, or their designees, a written notice of the date, hour, and location of that meeting, and the Clerk and the Secretary shall notify all members of the group from their respective Houses of Congress that such meeting will be held and shall inform them of its date, hour, and location. The group shall meet on that date and hour and at that location.

"(iii) If both the Chairman and the Vice Chairman are not in attendance at the requested meeting, then the attending ranking Member of the group from the same House of Congress as the Chairman shall preside at that meeting.

"(2) For purposes of section 5(b), a majority of the members of the permanent consultative group shall constitute a quorum.".

SEC. 4. CONGRESSIONAL ACTION; JUDICIAL REVIEW.

(a) IN GENERAL.—Section 5 of the War Powers Resolution (50 U.S.C. 1544) is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b)(1) Whenever the United States Armed Forces are engaged in hostilities or other situations described in a report submitted under section 4(a)(1) (or for which such a report was deemed under paragraph (3) to be required to be submitted) outside the United States, its possessions, and territories without a declaration of war or specific statutory authorization, it shall be in order in the Senate or the House of Representatives to consider, in accordance with section 7, a joint resolution described in paragraph (2).

"(2) A joint resolution referred to in paragraph (1) is a joint resolution—

"(A) which is introduced in a House of Congress by the Chairman or Vice Chairman of the permanent consultative group described in section 3, after approval of the group by a recorded, affirmative vote of a majority of those voting, a quorum being present, or, if the Chairman or Vice Chairman is not in the majority, then by a Member of the respective House designated by the permanent consultative group; and

"(B) which either—

"(i) requires the President to disengage such forces from such hostilities or to remove them from such situations, as the case may be, or

"(ii) provides specific authorization for the continued engagement of such forces in such hostilities or for the continued use of such forces in such situations, as the case may be.

"(3) For purposes of this subsection, a report described in section 4(a)(1) shall be deemed to be required to be submitted if the permanent consultative group, by a majority of those voting, a quorum being present, so finds. The permanent consultative group shall cause such finding to be published in the Congressional Record.

"(4) Nothing in this subsection alters or modifies the right of any Member of Congress to introduce a joint resolution or bill in a House of Congress which—

"(A) would require that the President disengage such forces from such hostilities or remove them from such situations, as the case may be; or

"(B) would provide specific authorization for the continued engagement of such forces in such hostilities or for the continued use of such forces in such situations, as the case may be.

"(c) Any Member of Congress may bring an action in the United States District Court for the District of Columbia for declaratory judgment and injunctive relief on the ground that the President or the United States Armed Forces have not complied with any provision of law described in paragraph (1) or (2) of section 6(a).".

(b) CONFORMING AMENDMENT.—The section heading of section 5 of the War Powers Resolution is amended to read as follows:

"CONGRESSIONAL ACTION; JUDICIAL REVIEW".

SEC. 5. PROHIBITION ON USE OF FUNDS.

The War Powers Resolution is amended by striking out section 6 (50 U.S.C. 1545) and inserting in lieu thereof the following:

"PROHIBITION ON USE OF FUNDS

"SEC. 6. (a) No funds appropriated or otherwise made available under any law may be obligated or expended for any activity which would have the purpose or effect of violating—

"(1) any provision of law enacted pursuant to section 7; or

"(2) any other provision of law relating to the actions described in clause (A) or (B) of section 5(b)(4).

"(b) Nothing in this section prohibits the use of funds to remove the United States Armed Forces from hostilities or situations where imminent involvement in hostilities is clearly indicated by the circumstances.".

SEC. 6. CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTIONS.

(a) IN GENERAL.—The War Powers Resolution is amended by striking out section 7 (50 U.S.C. 1546) and inserting in lieu thereof the following:

"CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTIONS

"SEC. 7. (a) For purposes of this section—

"(1) the term 'joint resolution' means a joint resolution described in section 5(b)(2); and

"(2) the term 'session days' means days on which the respective House of Congress is in session.

"(b) A joint resolution introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate.

"(c)(1) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 7 calendar days after its introduction, such committee shall be discharged from further consideration of such joint resolution, and such joint resolution shall be placed on the appropriate calendar of the House involved.

"(2) After a committee reports or is discharged from a joint resolution described in section 5(b)(2), no other joint resolution under such section with respect to the same hostilities, or the same situation in which imminent involvement in hostilities is clearly indicated by the circumstances, may be reported by or be discharged from such committee while the first joint resolution is before the respective House of Congress (including remaining on the calendar), a committee of conference, or the President.

"(d)(1)(A) When the committee to which a joint resolution is referred has reported, or has been discharged under subsection (c) from further consideration of such joint resolution, notwithstanding any rule or precedent of the Senate, including Rule 22, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution and, except as provided in subparagraph (B) of this paragraph or paragraph (2) of this subsection (insofar as it relates to germaneness and relevancy of amendments), all points of order against the joint resolution and consideration of the joint resolution are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall be in order, except that such motion may not be entered for future disposition. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House, to the exclusion of all other business, until disposed of, except as otherwise provided in subsection (e)(1).

"(B) Whenever a point of order is raised in the Senate against the privileged status of a joint resolution that has been laid before the Senate and been initially identified as privileged for consideration under this section upon its introduction pursuant to paragraph (2)(A) of section 5(b), such point of order shall be submitted directly to the Senate. The point of order, 'The joint resolution is not privileged under the War Powers Resolution', shall be decided by the yeas and the nays after four hours of debate, equally divided between, and controlled by, the Member raising the point of order and the manager of the joint resolution, except that in the event the manager is in favor of such point of order, the time in opposition thereto shall be controlled by the Minority Leader or his designee. Such point of order shall not be considered to establish precedent for determination of future cases.

"(2)(A) Consideration in a House of Congress of the joint resolution, and all amendments and debatable motions in connection therewith, shall be limited to not more than 12 hours, which, except as otherwise provided in this section, shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader, or by their designees. The Majority Leader or the Minority Leader or their designees may, from the time under their control on the joint resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

"(B) Only amendments which are germane and relevant to the joint resolution are in order. Debate on any amendment to the joint resolution shall be limited to 2 hours, except that debate on any amendment to an amendment shall be limited to 1 hour. The time of debate for each amendment shall be equally divided between, and controlled by, the mover of the amendment and the manager of the joint resolution, except that in the event the manager is in favor of any such amendment, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

"(C) One amendment by the Minority Leader is in order to be offered under a one-hour time limitation immediately following the expiration of the 12-hour time limitation if the Minority Leader has had no opportunity to offer an amendment to the joint resolution prior thereto. One amendment may be offered to the amendment of the Minority Leader under the preceding sentence, and debate shall be limited on such amendment to one-half hour which shall be equally divided between, and controlled by, the mover of the amendment and the manager of the joint resolution, except that in the event the manager is in favor of any such amendment, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

"(D) A motion to postpone or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is in order, except that such motion may not be entered for future disposition, and debate on such motion shall be limited to 1 hour.

"(3) Whenever all the time for debate on a joint resolution has been used or yielded back, no further amendments may be proposed, except as provided in subparagraph (B), and the vote on the adoption of the joint resolution shall occur without any intervening motion or amendment, except that a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House may occur immediately before such vote.

"(4) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be limited to one-half hour of debate, equally divided between, and controlled by, the Member making the appeal and the manager of the joint resolution, except that in the event the manager is in favor of any such appeal, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

"(e)(1) Except as provided in paragraph (2), if, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

"(A) The joint resolution of the other House shall not be referred to a committee.

"(B) With respect to a joint resolution of the House receiving the joint resolution—

"(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(ii)(I) the joint resolution of the other House shall be considered to have been read for the third time; and

"(II) the vote on final passage shall be on the joint resolution of the other House, if such joint resolutions are identical, or on the joint resolution of the other House if not identical, with the text of the joint resolution of the first House inserted in lieu of the text of the joint resolution of the second House, and such vote on final passage shall occur without debate or any intervening action.

"(C) Upon disposition of the joint resolution received from the other House, it shall no longer be in order to consider the joint resolution originated in the receiving House.

"(2) If one House receives from the other House a joint resolution before any such joint resolution is introduced in the first House, then the joint resolution received shall be referred, in the case of the House of Representatives, to the Committee on Foreign Affairs and, in the case of the Senate, to the Committee on Foreign Relations, and the procedures in that House with respect to that joint resolution shall be the same under this section as if the joint resolution received had been introduced in that House.

"(f) If one House receives from the other House a joint resolution after the first House has disposed of an identical joint resolution, it shall be in order to proceed by nondebatable motion to consideration of the joint resolution received by the first House, and that received joint resolution shall be disposed of without debate and without amendment.

"(g)(1)(A) The time for debate in a House of Congress on all motions required for the disposition of amendments between the Houses shall not exceed 2 hours, equally divided between, and controlled by, the mover of the motion and the manager of the joint resolution at each stage of the proceedings between the two Houses, except that in the event the manager is in favor of any such motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee. In the case of any disagreement between the two Houses of Congress with respect to a joint resolution which is not resolved, any Member of Congress may make any motion or motions referred to in this subparagraph within 2 session days after action by the second House or before the appointment of conferees, whichever comes first. In the event the conferees are unable to agree within 72 hours after the second House is notified that the first House has agreed to conference, they shall report back to their respective House in disagreement.

"(B) Notwithstanding any rule in either House of Congress concerning the printing of conference reports in the Congressional Record or concerning any delay in the consideration of such reports, such report, including a report filed or returned in disagreement, shall be acted on in the House of Representatives and the Senate not later than 2 session days after the first House files the report or, in the case of the Senate acting first, the report is first made available on the desks of the Senators. Debate in a House of Congress on a conference report or a report filed or returned in disagreement on any such joint resolution shall be limited to 3 hours, equally divided between, and controlled by, the Majority Leader and the Minority Leader, and their designees.

"(2) If a joint resolution is vetoed by the President, the time for debate in consideration of the veto message on such measure shall be limited to 20 hours in each House of Congress, equally divided between, and controlled by, the Majority Leader and the Minority Leader, and their designees.

"(h) This section is enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.".

(b) REPEAL.—Section 1013 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (50 U.S.C. 1546a), relating to expedited procedures for certain joint resolutions and bills, is repealed.

III

APPENDIX 5

100TH CONGRESS
2D SESSION

S. RES. 466

IN THE SENATE OF THE UNITED STATES

AUGUST 11 (legislative day, AUGUST 10), 1988

Mr. BYRD (for Mr. DOLE) submitted the following resolution; which was considered and agreed to

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RESOLUTION

Amending Senate Resolution 30 of the One Hundredth Congress.

Resolved, That (a) the first section of Senate Resolution 30 of the One Hundredth Congress (agreed to on January 6, 1987) is amended—

(1) by redesignating the second paragraph as subsection (b);

(2) by striking out the quotation marks and the second period at the end of subsection (b), as redesignated by paragraph (1); and

(3) by amending the first undesignated paragraph to read as follows:

"That (a)(1) the bipartisan group of Senators designated pursuant to clause (5) of the first section of Senate Resolution 19 of the Ninety-ninth Congress (agreed to on January 3, 1985), as reconstituted and reauthorized by Senate Resolution 86 of the Ninety-ninth Congress (agreed to on February 28, 1985), is further reconstituted and reauthorized in accordance with this resolution. Such group may be referred to as the 'Senate Arms Control Observer Group'.

"(2) The members of the Senate Arms Control Observer Group shall act as official observers on the United States delegation to any formal negotiations to which the United States is a party on the reduction of nuclear, conventional, or chemical arms.

"(3) The Senate Arms Control Observer Group shall be composed of 16 members, as follows:

"(A) Five Cochairmen, who shall head the Group, as follows:

"(i) the President pro tempore of the Senate;

"(ii) two Members of the Senate from the majority party in the Senate, appointed by the President pro tempore after consultation with the Majority Leader; and

"(iii) two Members of the Senate from the minority party in the Senate, appointed by the Minority Leader.

"(B) The Majority Leader and the Minority Leader of the Senate, who shall serve as ex officio members of the Group.

"(C) Three Members of the Senate from the majority party in the Senate, appointed by the President pro tempore after consultation with the Majority Leader.

"(D) Four Members of the Senate from the minority party in the Senate, appointed by the Minority Leader.

"(4) The President pro tempore of the Senate shall serve as the Majority Administrative Cochairman, and the Minority Leader shall designate one of the cochairman from the minority party to serve as the Minority Administrative Cochairman.

"(5) The President pro tempore and the Minority Leader of the Senate shall make their respective appointments under this subsection in writing and shall cause their appointments to be printed in the Congressional Record.".

(b) Section 3(a) of Senate Resolution 30 of the One Hundredth Congress is amended by striking out "Chairmen for Administrative purposes" and inserting in lieu thereof "Administrative Cochairmen".

(c) Any reference in Senate Resolution 30 of the One Hundredth Congress, or in any other resolution of the

Senate, to the Senate Observer Group shall be considered to be a reference, beginning on the effective date of the amendments made by subsections (a) and (b), to the Senate Arms Control Observer Group.

(d) The second sentence of Section 2(b) of Senate Resolution 30 of the One Hundredth Congress is deleted and the following sentence shall be inserted in lieu thereof: "The Designated Group staff shall also include, one staff person selected by, and responsible to, the Majority, and two staff persons selected by, and responsible to, the Minority."

(e) The amendments made by subsections (a), (b) and (d) shall take effect with the beginning of the first session of the One Hundredth-first Congress.

III

APPENDIX 6

100TH CONGRESS
1ST SESSION

S. RES. 94

Concerning arms control negotiations with the Soviet Union.

IN THE SENATE OF THE UNITED STATES

JANUARY 29, 1987

Mr. BYRD (for himself, Mr. DOLE, Mr. BOREN, Mr. NICKLES, Mr. SPECTER, Mr. DOMENICI, Mr. ROCKEFELLER, and Mr. PELL) submitted the following resolution; which was ordered placed on the calendar

FEBRUARY 17, 1987

Considered and agreed to

RESOLUTION

Concerning arms control negotiations with the Soviet Union.

Whereas the reduction and control of nuclear weapons arsenals through mutual, equitable, balanced, verifiable, and stabilizing treaties between the United States and the Soviet Union are a matter of the highest priority and should be pursued vigorously, without regard for partisan considerations;

Whereas the United States and the Soviet Union have been negotiating a full range of nuclear arms issues under discussion at Geneva and in other fora, and a number of detailed proposals have been tabled;

Whereas President Ronald Reagan and General Secretary Mikhail Gorbachev have engaged in serious discussions and negotiations on arms reduction matters twice in the last sixteen months, and have both expressed their resolve to build upon the results of the negotiations thus far engaged in;

Whereas the pace of technological change and strategic modernization will be a factor in the prospects for the successful negotiation of future arms reduction agreements; and

Whereas the Congress, the American people, and America's allies and friends overwhelmingly support the vigorous continuation of efforts by President Reagan to pursue a negotiated resolution of the major issues in contention with the Soviet Union: Now, therefore, be it

Resolved, That the Senate hereby—

(1) expresses its full support for the commitment by the President to achieve mutual, equitable, balanced, verifiable and stabilizing nuclear arms reduction agreements with the Soviet Union which serve to meet the national security interests of the United States and its allies;

(2) encourages both nations to use determined and creative diplomacy at the Geneva negotiations to resolve their remaining differences;

(3) cautions the Soviet Union against pursuing strategies designed to exploit American domestic politics or to divide the United States from its allies in an effort to secure advantages on arms reduction matters, and rejects the concept of reaching agreements for agreements' sake;

(4) urges the Soviet Union not to condition progress on all arms control matters to the satisfaction of its negotiating position on issues relating to strategic defense technologies;

(5) declares that an important obstacle to the achievement of acceptable arms control agreements with the Soviet Union has been its violations of existing agreements, and calls upon it to take steps to rectify its violations of such agreements and, in particular, to dismantle the newly-constructed radar sited at Krasnoyarsk, Union of Soviet Socialist Republics, since it is a clear violation of the terms of the Anti-Ballistic Missile Treaty; and

(6) urges the President to closely consult with America's allies and the Senate in the construction of sound arms reduction agreements, so as to build the greatest possible understanding and consensus in the event that the Senate is asked to provide its advice and consent to the ratification of such agreements.

APPENDIX 7

BYRD (AND NUNN) AMENDMENT NO. 763

Mr. BYRD (for himself and Mr. Nunn) proposed an amendment to the bill S. 1174, supra; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . REPORT ON REQUIREMENTS FOR MAINTAINING NATO'S STRATEGY OF DETERRENCE.

(a) IN GENERAL.—The Secretary of Defense shall submit to Congress a report regarding the ability of the North Atlantic Treaty Organization (NATO) to maintain its strategy of deterrence through the 1990s, including a specific discussion concerning this issue in the event the United States and the Soviet Union agree to a treaty which requires reduction or elimination of types of delivery systems or reductions in the numbers of nuclear weapons deployed in Western Europe.

(b) FORM AND CONTENT OF REPORT.—The Secretary shall submit the report required by subsection (a) in both classified and unclassified forms and shall include in the report the following:

(1) The appropriate numbers and types of nuclear weapons and nuclear-capable delivery systems not limited by the proposed treaty which the Secretary of Defense recommends for deployment in the European theater under the terms of an arms control agreement likely to be agreed to by the United States and the Soviet Union.

(2) A description of any nuclear modernization program the Secretary of Defense has recommended or proposes to recommend as necessary to ensure that NATO will be able to maintain a credible and effective military strategy.

(3) A discussion of the impact that a reduction in the number of nuclear warheads deployed by NATO in Western Europe will likely have on NATO's ability to maintain an effective flexible response strategy and credible deterrence.

(4) A discussion of any plans for redeployment in peacetime to Western Europe, in the event an agreement referred to in subsection (a) is successfully concluded, of nuclear forces of the United States that are currently deployed outside Western Europe.

(5) A discussion of the balance of non-nuclear forces in the NATO theater and the potential impact of an agreement limiting non-nuclear forces on that balance.

(6) A discussion of the feasibility of substituting advanced conventional munitions for nuclear weapons currently deployed by NATO, including a discussion of the costs of such weapons and prospects for sharing such costs among NATO allies.

(7) A discussion of all feasible candidate nuclear weapons delivery systems that might be deployed by NATO, including all delivery systems currently in the inventories of the United States and NATO and any new systems that may become available during the time period covered by the reports required by subsection (a).

(8) A discussion of the views of the leaders of member nations of NATO (other than the United States) and of the Supreme Allied Commander, Europe (SACEUR) on the issues in items (1) through (6) above.

(c) Deadline for Report.—The report required by subsection (A) shall be submitted—

(1) not later than 90 days after the date of enactment of this Act; or

(2) not later than the date on which the President submits to the Senate for its advice and consent an arms control treaty limiting deployment of intermediate—range nuclear forces (INF) in Western Europe, whichever date is earlier.

III

APPENDIX 8

100TH CONGRESS
1ST SESSION

S. RES. 348

Establishing an Arms Control Treaty Review Support Office.

IN THE SENATE OF THE UNITED STATES

DECEMBER 19 (legislative day, DECEMBER 15), 1987

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to

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RESOLUTION

Establishing an Arms Control Treaty Review Support Office.

Resolved, That there is established within the Senate an Arms Control Treaty Review Support Office (hereafter in this resolution referred to as the "Office"), which shall be under the policy direction of the Majority Leader and the Minority Leader and which shall be under the administrative direction and supervision of the Secretary of the Senate (hereafter in this resolution referred to as the "Secretary").

SEC. 2. (a) The Office shall provide to the Senate such administrative support as the Majority and Minority Leaders may direct, with respect to Senate consideration of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-Range and Shorter-Range Missiles, done at Washington on December 8, 1987, and of any other arms control treaties submitted, during the One Hundredth Congress, by the President to the Senate for its advice and consent to ratification. Such support shall include—

(1) the temporary storage and organization, system of access to, and security of, documents related to the negotiating records of such treaties; and

(2) such other assistance to the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate, as may be deemed necessary to their consideration of such treaties.

(b) The Office shall maintain an active liaison on behalf of the Senate, or any committee listed under subsection (a)(2), with all departments and agencies of the United States on matters relating to the functions of the Office described in subsection (a).

(c) Nothing in this resolution shall be construed to alter the jurisdiction of any committee of the Senate.

SEC. 3. (a) The Office is authorized, from funds made available under section 5 of this resolution, to employ such staff (including consultants at a daily rate of pay) in the manner and at a rate not to exceed that allowed for employees of a standing committee of the Senate under paragraph

(3) of section 105(e) of the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 61–1(e)), and to incur such expenses as may be necessary and appropriate to carry out its duties and functions.

(b) The Secretary, upon the recommendation of the Majority and Minority Leaders, shall appoint and fix the compensation of such personnel, including clerical staff, as may be necessary to carry out the provisions of this resolution.

SEC. 4. (a)(1) The Majority and Minority Leaders shall make arrangements with the Executive Branch to provide for the transmission, organization, and system of access to, the negotiating record relating to arms control treaties submitted during the One Hundredth Congress by the President to the Senate for its advice and consent to ratification.

(2)(A) Access by staff personnel and consultants employed by the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate to any document in the possession of the Office or to the premises of the Office shall be limited to individuals who are designated jointly by the chairman of the respective committee and by the Majority Leader, in consultation with the Minority Leader.

(B) Access by staff personnel and consultants employed by any office of the Senate (other than the Office or any of the committees specified in subparagraph (A)) to any document in the possession of the Office or to the premises of the Office shall be limited to individuals who are designated jointly by the Majority Leader and the Minority Leader.

(C) The Majority Leader and the Minority Leader shall jointly determine which staff members and consultants of the Office shall be required to have security clearances.

(D) No person described in subparagraph (A), (B), or (C) may be given access to classified information held by the Office unless such person has an appropriate security clearance and a need to know such information.

(3) All staff members and consultants shall, as a condition of employment, agree in writing to abide by the conditions of an appropriate nondisclosure agreement promulgated by the Office of Senate Security.

(4) The Office shall employ a security officer qualified to administer appropriate security procedures to ensure the protection of confidential and classified information in the possession of the Office.

(5) The case of any Senator who violates the security procedures of the Office may be referred to the Select Committee on Ethics of the Senate for the imposition of sanctions in accordance with the rules of the Senate. Any staff member or consultant who violates the security procedures of the Office shall immediately be subject to dismissal or such other sanction as the Majority and Minority Leaders may direct.

(b)(1) The Office shall make suitable arrangements, in consultation with the Office of Senate Security, for the physical protection and storage of classified information in its possession.

(2) Upon termination of the Office pursuant to section 6 of this resolution, all records, files, documents, and other materials in the possession, custody, or control of the Office, under appropriate conditions established by the Office, shall be transferred to the Office of Senate Security.

SEC. 5. (a) Such sums as are necessary to carry out the provisions of this resolution, shall be made available from the contingent fund of the Senate, out of the Account of Miscellaneous Items, to pay the expenses of the Office, upon vouchers approved by the Secretary (except that vouchers shall not be required for the disbursement of salaries of employees who are paid at an annual rate).

(b)(1) Such sums as are necessary to carry out the provisions of this resolution may be expended by the Office, with the prior approval of the Committee on Rules and Administration, to procure the temporary (not in excess of one year) or intermittent services, including related and necessary expenses, of individual consultants, or organizations thereof, to make studies or advise the Office.

(2) Such services in the cases of individuals or organizations may be procured by contract as independent contractors

or, in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent to the highest gross rate of compensation which may be paid to the regular employee of a standing committee of the Senate. Such contracts shall not be subject to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provisions of law requiring advertising.

(3) Any such consultant shall be selected by the Majority and Minority Leaders acting jointly. The Office shall submit to the Committee on Rules and Administration of the Senate information bearing on the qualifications of each consultant whose services are procured pursuant to this subsection, including organizations, and such information shall be retained by the Office and shall be made available for public inspection upon request.

SEC. 6. The Office shall terminate not later than thirty days after the sine die adjournment of the One Hundredth Congress.

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APPENDIX 9

Senate of the United States

In Executive Session

May 27, 1988

Resolved *(two-thirds of the Senators present concurring therein),* That the Senate advise d consent to ratification of the Treaty between the United States of America and the Union Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-nge Missiles, together with the Memorandum of Understanding and the two Protocols ereto, collectively referred to as the INF Treaty, all signed at Washington on December 8, 87 (Treaty Doc. 100–11), subject to the following—

(a) CONDITIONS:

(1) Provided, that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition, based on the Treaty Clauses of the Constitution, that—

(A) the United States shall interpret the Treaty in accordance with the common understanding of the Treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification;

(B) such common understanding is based on:

(i) first, the text of the Treaty and the provisions of this resolution of ratification; and

(ii) second, the authoritative representations which were provided by the President and his representatives to the Senate and its Committees, in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty; and

(C) the United States shall not agree to or adopt an interpretation different from that common understanding except pursuant to Senate advice and consent to a subsequent treaty or protocol, or the enactment of a statute; and

(D) if, subsequent to ratification of the Treaty, a question arises as to the interpretation of a provision of the Treaty on which no common understanding was reached in accordance with paragraph (2), that provision shall be interpreted in accordance with applicable United States law.

(2) The advice and consent of the Senate to the ratification of the INF Treaty is further subject to the condition that in connection with the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall obtain the agreement of the Union of Soviet Socialist Republics that the agreement concluded by exchange of notes in Geneva on May 12, 1988 between the United States and the Union of Soviet Socialist Republics as to the application of the Treaty to intermediate-range and shorter-range missiles flight-tested or deployed to carry or be used as weapons based on either current or future technologies and as to the related question of the definition of the term "weapon-delivery vehicle" as used in the Treaty, the agreed minute of May 12, 1988 signed by Ambassador Maynard W. Glitman and Colonel General N. Chervov reflecting the agreement of the Parties regarding certain issues related to the Treaty, and the agreements signed on May 21, 1988 in Vienna and Moscow, respectively, correcting the site diagrams and certain technical errors in the Treaty, are of the same force and effect as the provisions of the Treaty.

(3) That prior to the exchange of the instruments of ratification pursuant to Article XVII of the Treaty, the President shall certify that it is the common understanding of the United States and the Soviet Union that if either Party produces a type of ground-launched ballistic missile (GLBM) not limited by the Treaty using a stage which is outwardly similar to, but not interchangeable with, a stage of an existing type of intermediate-range GLBM having more than one stage, it may not produce any other stage which is outwardly similar to, whether or not it is interchangeable with, any other stage of an existing type of intermediate-range GLBM.

(b) DECLARATIONS:

(1) The Senate's advice and consent to ratification of the Treaty is further subject to the following:

Declaration.—The Senate declares that—

(A) because the incentive for Soviet noncompliance, and the difficulty of monitoring will be greater for any strategic arms reduction talks (START) agreement than for the INF Treaty, the United States should rely primarily on its own national technical means of verification rather than any cooperative verification scheme, such as the on-site inspection procedures agreed to in the INF Treaty;

(B) because the United States enjoys a comparative advantage in the development of nonnuclear technologies that can increase the nuclear threshold and reduce the likelihood of war and because START and the INF Treaty will increase the military need to rely more heavily on such nonnuclear capabilities, in any subsequent agreement between the United States and the Soviet Union regarding the reduction of Strategic Weapons, it should be the position of the United States that no restrictions should be established on current or future nonnuclear air- or sea-launched cruise missiles developed or deployed by the United States, or on nonnuclear ground launched cruise missiles of ranges not prohibited by the INF Treaty; and

(C) because the reductions contemplated under any START agreement would change the character and optimal mix of strategic nuclear forces that the United States will need to maintain stability, the United States Congress and the President should agree on the character of, and funding for, these forces before any START agreement, framework or otherwise, is signed or agreed to.

(2) Provided that the Senate's advice and consent to ratification of the INF Treaty is subject to the condition:

Declaration.—It shall be the declared policy of the United States of America that, as an integral factor in its decision to adhere to this Treaty, the United States intends to continue to negotiate with the Union of Soviet Socialist Republics a treaty effecting reductions in strategic nuclear forces of the Parties and, in conjunction with its NATO Allies, to negotiate a treaty establishing conventional stability in Europe. In so doing, it shall be guided by the following principles and considerations:

(A) a main object of such future treaties shall be international stability and reduction of the risk of war by obtaining general equivalence in the resultant strategic forces of the Parties;

(B) during any negotiations contemplated by this declaration, the United States shall act in close consultation with its Allies who are member states of the North Atlantic Treaty Organization and with such other states as appropriate;

(C) negotiations contemplated by this declaration shall also be conducted with close and detailed consideration of the advice of the United States Senate, and the Senate should be kept fully apprised of all significant proposals made to the Union of Soviet Socialist Republics and, with respect to such negotiations, the judgments and recommendations of the United States Senate shall be given full and highest consideration and due regard;

(D) the negotiations contemplated by this declaration shall also seek to secure regimes of effective verification and mechanisms for full compliance which build upon the verification regime and compliance mechanisms of the present Treaty, strengthening them appropriately for any subsequent treaty;

(E) in accordance with the Constitutional process of the United States, the United States shall, consistent with correctly construed principles of international law, not be bound to adhere to or observe any treaty contemplated by this declaration until ratification thereof pursuant to the advice and consent of the Senate. However, nothing in this declaration shall imply that the United States will take an action of such nature as to make impossible the performance of any future treaty contemplated by this declaration after the signing of such treaty and during the period in which there is a clear prospect of timely ratification thereof;

(F) the United States considers full and exact compliance with the present treaty and with all other existing arms control agreements between the Parties to be a major issue affecting (i) the proposals and attitudes of the United States with respect to the future treaties contemplated hereby and (ii) proportionate and appropriate responses with respect to such existing agreements;

(G) pursuant to this declaration, any joint statement by the United States of America with the Union of Soviet Socialist Republics of a framework for the negotiation of strategic arms treaties contemplated hereby, and such framework itself, shall serve for the purpose only of guiding the conduct of the negotiations which the United States herein has declared its desire to pursue expeditiously, and shall not constrain any military programs of the United States unless otherwise provided for in accordance with Section 33 of the Arms Control and Disarmament Act; and

(H) the capability of the United States of America to monitor any future treaty contemplated by this declaration shall be strengthened in order to increase the ability of the United States to detect violations thereof.

(c) DECLARATION AND UNDERSTANDINGS:

The advice and consent to ratification given by the Senate under this resolution of ratification is subject to the following declaration and understandings, which the President, using existing authority, shall communicate to the Union of Soviet Socialist Republics, in connection with the exchange of the instruments of ratification of the Treaty:

(1) the declaration that the Senate strongly believes that respect for human rights and fundamental freedoms is an essential factor to ensure the development of friendly relations and cooperation between the United States and the Soviet Union and calls upon the President to use every opportunity to stress the inherent link between respect for human rights and the achievement of lasting peace;

(2) the understanding that the President shall seek sustained and demonstrable progress by the Soviet Union in its implementation of the provisions of—

(A) the Final Act of the Conference on Security and Cooperation in Europe (hereafter referred to as the "Helsinki Final Act"),

(B) the Madrid Concluding Document of the Commission on Security and Cooperation in Europe, done September 9, 1983 (hereafter referred to as the "Madrid Concluding Document"),

(C) the Universal Declaration of Human Rights (also known as the "Universal Declaration"), and

(D) other international human rights agreements to which the Soviet Union is a signatory or party, including provisions relating to—

(i) the freedom of thought, conscience, religion, and belief, without regard to race, sex, language, religion, or national origin,

(ii) the recognition and respect for the rights of individuals, including those belonging to national minorities, to enjoyment and practice of their cultures, heritage, history, and national consciousness,

(iii) the right of freedom of movement for individuals within the Soviet Union and the right to leave the Soviet Union, without arbitrary and capricious barriers, and

(iv) the right of individuals to know and act upon their rights and duties in these agreements; and

(3) the understanding that the United States, through the Helsinki process, will expect full compliance, as evidenced by specific action, by the Soviet Union with its commitments in the field of human rights and fundamental freedoms and will seek to strengthen these commitments through review meetings and a balanced number of follow-up activities which will advance verifiable implementation of the human rights provisions of the Helsinki Final Act and the Madrid Concluding Document.

Attest:

Walter J. Stewart

Secretary.

UNITED STATES SENATE

APPENDIX 10

[From the 100th Cong., 2d Sess., House of Representatives, Rept. 100-753]

NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

SEC. 908. ANALYSIS OF ALTERNATIVE STRATEGIC NUCLEAR FORCE POSTURES FOR THE UNITED STATES UNDER A POTENTIAL START TREATY.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and the Soviet Union are currently engaged in talks regarding the reduction of strategic nuclear arms.

(2) Such talks could result in a treaty requiring deep reductions in the strategic forces of the United States.

(3) Any such Strategic Arms Reduction Treaty (START) cannot be ratified without the advice and consent of the Senate.

(4) Any such START Treaty should result in a stable balance of strategic forces between the United States and the Soviet Union which enhances the security of the United States.

(5) Congress should provide funds for the forces permitted under such a treaty that are required to ensure the stability of the force balance under such a treaty.

(6) Congress faces critical resource choices for fiscal year 1989 and subsequent fiscal years, and the resource choices made by Congress for those years could substantially influence the strategic force posture of the United States in the period after such a treaty goes into effect.

(b) PRESIDENTIAL REPORT.—Before entering into any Strategic Arms Reduction Treaty or other agreement with the Soviet Union for the reduction of strategic arms, but not later than Septem- ber 15, 1988, the President shall submit to Congress a comprehensive report on the implications such a treaty or agreement might have on the strategic force postures of the United States during the 1990s. The report shall include the following:

(1) A description of alternative force postures that might be permitted for the United States under such an arms reduction agreement, including the posture recommended by the President.

(2) The estimated costs, over at least a seven-year period, associated with each alternative force posture.

(3) The damage limitation capability, the survivability, and the retaliatory potential of such force posture, and the implications for strategic stability, assessed with regard to the likely force postures of the Soviet Union under such an agreement and the first-strike potential of such force postures.

(4) The likely effect of a breakout by the Soviet Union from such an arms control agreement on the survivability and of the force posture of the United States under such an agreement recommended by the President under paragraph (1).

(c) FORM OF REPORT.—The President shall submit the report under subsection (b) in both classified and unclassified form.

SEC. 109. EXTENSION OF DATE FOR REPORT ON POTENTIAL START TREATY.

Section 908 of the National Defense Authorization Act, FY 1989 is amended—

(1) in subsection (b) by striking out "September 15, 1988" and inserting in lieu thereof "March 15, 1989" and

(2) by striking out subsection (c) and and inserting in lieu thereof the following:

"(c) INTERIM REPORT.—The President shall submit an interim report to Congress containing the information described in subsection (b) not later than December 15, 1989.

"(d) FORM OF REPORT.—The President shall submit the reports under subsections (b) and (c) in both classified and unclassified form."

APPENDIX 11

100TH CONGRESS
1ST SESSION

S. RES. 273

To establish a Senate Central American Negotiations Observer Group.

IN THE SENATE OF THE UNITED STATES

AUGUST 7 (legislative day, AUGUST 5), 1987

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to

---

RESOLUTION

To establish a Senate Central American Negotiations Observer Group.

Resolved,

SHORT TITLE

SECTION 1. This resolution may be referred to as the "Central American Negotiations Observer Group Resolution".

ESTABLISHMENT

SEC. 2. (a) There is established a bipartisan group of Senators to be known as the Senate Central American Negotiations Observer Group (hereafter in this resolution referred to as the "Observer Group"), which shall consist of eight Senators as follows:

(1) the Majority Leader and Minority Leader of the Senate, each serving ex officio; and

(2) six Senators appointed by the President pro tempore of the Senate as follows:

(A) Three Senators appointed upon the written recommendation of the Majority Leader from among Members of the majority party.

(B) Three Senators appointed upon the written recommendation of the Minority Leader from among the Members of the minority party.

(b)(1) The Chairman of the Observer Group shall be designated by the Majority Leader from among the individuals recommended for appointment under subsection (a)(2)(A).

(2) The Co-Chairman of the Observer Group shall be designated by the Minority Leader from among the individuals recommended for appointment under subsection (a)(2)(B).

(c) Any vacancy occurring in the membership of the Observer Group shall be filled in the same manner in which the original appointment was made.

DUTIES

SEC. 3. The duty of the Observer Group shall be to act as a group of official observers as part of the United States delegation to any and all negotiations with the governments of the Central American countries of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua to which the

United States is a party and to any multilateral negotiations or discussions dealing with the question of peace in Central America to which the governments of such countries are invited to participate.

STAFF; TRAVEL

SEC. 4. (a) The Observer Group is, authorized from funds made available under section 6, to employ such staff (including consultants at a daily rate of pay) in the manner and at a rate not to exceed that allowed for employees of a standing committee of the Senate under paragraph (3) of section 105(e) of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61–1(e)), and to incur such expenses as may be necessary or appropriate to carry out its duties and functions.

(b) The Chairman and Co-Chairman shall jointly appoint appropriate staff personnel to serve the Observer Group, including clerical staff as deemed necessary. The staff appointments shall be made in writing to the Secretary of the Senate.

(c) The Majority Leader and the Minority Leader may each designate one staff member as liaison to serve the Observer Group, and such personnel may be referred to as leadership staff. Funds necessary to compensate leadership staff shall be transferred from the funds made available under section 6(b) of this resolution to the respective account from which such designated staff member is paid.

(d) All foreign travel of the Observer Group shall be authorized solely by the Majority and Minority Leaders, upon the recommendation of both the Chairman and Co-Chairman. Participation by staff members in authorized foreign travel by the Observer Group, access to all official activities and functions by the Observer Group during such travel, and access to all classified briefings and information made available to the Observer Group during such travel, shall be limited exclusively to delegation members with appropriate clearances. No travel or other funding shall be authorized by any committee of the Senate for the use of staff, other than delegation staff, in regard to the activities described in this subsection, without the written authorization of the Majority and the Minority Leader to the chairman of such committee.

(e) Of the Members of the Senate, only Senators appointed as members of the Observer Group may participate in official travel and activities of the Observer Group. In the event that either the Majority Leader or the Minority Leader does not travel on an official trip of the Observer Group, he may designate one other Senator not a member of the Group to travel and participate in the activities of the Observer Group in his stead.

ACCESS TO AND STORAGE OF DOCUMENTS

SEC. 5. (a) The Observer Group should make arrangements with the Executive Branch to provide, on a confidential basis, access to the record of any dialogue or negotiations that may take place relating to peace in Central America.

(b) Classified and other sensitive materials associated with this Observer Group shall be stored under the administration of the Secretary of the Senate in the Office of Senate Security.

FUNDS

SEC. 6. (a) Such sums as are necessary from the contingent fund of the Senate, out of the Account of Miscellaneous Items, shall be made available to pay the expenses of the Observer Group, upon vouchers approved jointly by the Chairman and Co-Chairman (except that vouchers shall not be required for the disbursement of salaries of employees who are paid at an annual rate).

(b) In addition, such sums as are necessary from the contingent fund of the Senate, out of the Account of Miscellaneous Items, shall be made available for the salaries and expenses of leadership staff designated in section 4(c) (except for expenses incurred for foreign travel).

(c)(1) Such sums as are necessary may be expended by the Observer Group, with the prior approval of the Committee on Rules and Administration, to procure the temporary services (not in excess of one year) or intermittent services, including related and necessary expenses, of individual consultants, or organizations thereof, to make studies or advise the Observer Group.

(2) Such services in the cases of individuals or organization may be procured by contract as independent contractors or, in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent to the highest gross rate of compensation which may be paid to a regular employee of a standing committee of the Senate. Such contracts shall not be subject to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provisions of law requiring advertising.

(3) The Observer Group shall submit to the Committee on Rules and Administration information bearing on the qualifications of each consultant whose services are procured pursuant to this subsection, including organizations, and such information shall be retained by the Observer Group and shall be made available for public inspection upon request.

APPENDIX 12

[AMENDMENT 2813]

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes

Strike all after the word "Title" on the pending amendment and insert the following:

SEC. 9001. POLICY.

It is the policy of the United States to advance peace and democracy in Central America and to protect American security interests in the region. In pursuing that policy it is the objective of the United States to seek a just and lasting peace for the region in a manner compatible with the Esquipulas Accord of August 7, 1987, the declaration of the Central American presidents at San Jose, Costa Rica, on January 16, 1988, the Sapoa Agreement of March 23, 1988, and United States national security interests in the region.

SEC. 9002. SPECIAL CONDITIONS WARRANTING EXPEDITED PROCEDURES FOR LEGISLATION CONCERNING TRANSPORTATION OF PREVIOUSLY APPROPRIATED ASSISTANCE HELD IN TITLE BY THE NICARAGUAN RESISTANCE.

If, at any time after enactment of this Act and before the adjournment sine die of the 2nd session of the One Hundredth Congress—

(1) the President finds that the Government of Nicaragua has caused an emergency situation in Central America which is having a critical impact on peace and stability of that region, and

(2) the President has consulted with the presidents of Costa Rica, El Salvador, Honduras, and Guatemala regarding that emergency situation, and

(3) the President submits to the Congress the report described in section 9004(a), and

(4) the President requests the Congress to consider legislation which would authorize the transportation to the Nicaraguan Resistance of previously appropriated assistance held in title by the Nicaraguan Resistance and, if necessary, provide authority for the interchangeability of such assistance with equipment of comparable value and purpose which is owned by the United States, and (b) the transportation of humanitarian and military assistance in the same transportation system, and

(5) the House of Representatives has passed legislation, with or without amendments, with respect to the request under paragraph (4),

then a joint resolution described in section 9013(a)(1), shall be considered in the Senate in accordance with the procedures specified in section 9013 of this title.

SEC. 9003. RESTRICTIONS REGARDING THE EMERGENCY TRANSPORT OF PREVIOUSLY APPROPRIATED ASSISTANCE HELD IN TITLE BY THE NICARAGUAN RESISTANCE.

(a) IN GENERAL.—This section shall only apply upon the enactment of legislation, considered in the Senate in accordance with section 9013, authorizing the transportation to the Nicaraguan Resistance of previously appropriated assistance not to exceed $16.5 million held in title by the Nicaraguan Resistance and, if necessary, providing authority for the interchangeability of such assistance with equipment of comparable value and purpose which is owned by the United States.

(b) FUNDS FOR TRANSPORTATION—(1) There shall be transferred to the Secretary of State from unobligated funds from appropriations accounts specified in 9011—

(A) such sums as are necessary to carry out the transportation requirements described in subsection (a), but not to exceed $5 million; and

(B) such sums as are necessary to provide for the indemnification of aircraft leased with funds transferred under clause (A), but not to exceed $20 million.

(2) The Secretary of State shall transfer the balance, if any, remaining of funds transferred under paragraph (A)(B) to the appropriations accounts from which such funds were transferred under such paragraph when the transportation requirements described in subsection (a) have been met.

(c) MONITORING BY CONGRESSIONAL COMMITTEES.—(1) The chairman and ranking minority members of the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate shall be kept fully and currently informed regarding the transportation or exchange of any assistance described in subsection (a), including the value and purpose of the items transported or exchanged and the costs of such transportation.

(2) For purposes of this subsection, the term "fully and currently informed" includes the provision of all records, data, and other information necessary to carry out the monitoring of activities described in this subsection.

(d) ROLE OF THE SECRETARY OF STATE.—The Secretary of State (or his designee) shall be responsible for support, coordination, and supervision of the transportation of assistance described in subsection (a). Such support shall involve the provision of funds as well as the provision and transportation of materiel and other assistance.

(e) The authority granted by this section expires upon delivery of previously appropriated assistance and interchanged assistance authorized by this section.

SEC. 9004. REPORTS.

(a) PRESIDENTIAL REPORT.—At the time of the submission to the Congress by the President of any request for the authority described in section 9002(4), the President shall submit to the Congress a report containing—

(1) a detailed discussion and substantial evidence of the nature of the emergency situation in or adjacent to Nicaragua caused by actions taken by the Government of Nicaragua having a critical impact on peace and stability of the Central American region.

(2) a description of the recommendations made by the presidents of the Central American democracies consulted in accordance with section 9002(2), and

(3) the justification for the transport to the Nicaraguan Resistance of previously appropriated assistance held in title by the Nicaraguan Resistance,

including specific information pertaining to at least two of the following three actions:

(A) Sandinista initiation of an unprovoked military attack and any other hostile action directed against the forces of the Nicaraguan Resistance, as well as participation or support of any hostile actions against such forces by any other foreign country or organized group;

(B) Other blatant violations of the Esquipulas Accord of August 7, 1987, such as suppression of the media and the internal political opposition, including a denial of its rights to assemble and to hold peaceful demonstrations, and other human rights violations against the people of Nicaragua; and

(C) A continued unacceptable level of military assistance by Soviet-bloc countries, including Cuba.

(b) MONTHLY REPORT BY THE SECRETARY OF STATE.—The Secretary of State shall, not less than once every 30 days after the date of enactment of this Act until the funds provided under this title are expended, submit to the intelligence committees and foreign relations committees of the Congress a report—

(1) describing the conditions in Nicaragua and the use of the funds provided under this title;

(2) a detailed statement of any progress toward a negotiated settlement of the armed conflict in Central America, as agreed to under the Esquipulas Accord of August 7, 1987;

(3) a detailed discussion of United States efforts since the signing of the Sapoa agreement to encourage the Soviet Union to restrict the shipment of Soviet arms to the Government of Nicaragua and specifying Soviet reaction to such efforts;

(4) a discussion reviewing the status of United States national security interests in Central America, with particular attention the advisability of entering into bilateral negotiations with the Government of Nicaragua concerning—

(A) the termination of the presence of Soviet and Soviet-bloc (including Cuban) military and security advisors in Nicaragua;

(B) the termination of Soviet and Soviet-bloc (including Cuban) assistance to the Government of Nicaragua; and

(C) a prohibition on the establishment or use of bases in Nicaragua by the Soviet Union or any Soviet-bloc country, including Cuba;

(5) a description of United States diplomatic efforts in support of the Esquipulas Accord of August 7, 1987, and the Sapoa Agreement of March 23, 1988, and an analysis of the actions taken by the Nicaraguan Resistance and the Government of Nicaragua to negotiate a settlement under the provisions of these agreements;

(6) an evaluation of the effect that additional military assistance for the Nicaraguan Resistance would have on political and economic stability in Honduras, Costa Rica, and El Salvador, as well as how such assistance would advance the process of negotiation and political settlement in Nicaragua;

(7) a description of the progress made by economic development programs that have been implemented in Honduras, El Salvador, and Costa Rica since the Esquipulas Accord of August 7, 1987, was signed and what effect renewed fighting in Nicaragua would have on these programs; and

(8) a discussion of the policies of the European allies of the United States and the Latin American democracies (outside Central America) toward Central America, and the extent of their support for and cooperation with United States policies regarding the Nicaraguan Resistance.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "intelligence committees" refers to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate; and

(2) the term "foreign relations committees" refers to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

SEC. 9005. PROHIBITION.

Except as provided in this title, no additional assistance maybe provided to the Nicaraguan Resistance unless the Congress enacts a law specifically authorizing such assistance.

SEC. 9006. ADDITIONAL HUMANITARIAN ASSISTANCE.

(a) TRANSFER OF FUNDS.— The President shall transfer to the Agency for International Development, from unobligated funds from the appropriations accounts specified in section 9011—

(1) $27,140,000, to provide humanitarian assistance to the Nicaraguan Resistance, to remain available through March 31, 1989, except that funds provided by this subsection shall not be obligated for humanitarian assistance prior to October 1, 1988; and

(2) such funds as may be necessary to provide transportation in accordance with section 9007 for assistance authorized by paragraph (1).

(b) DEFINITION.—For purposes of this section and section 9007, the term "humanitarian assistance" means—

(1) food, clothing, and shelter,

(2) medical services, medical supplies, and nonmilitary training for health and sanitation;

(3) nonmilitary training of the recipients with respect to their treatment of civilians and other armed forces personnel, in accordance with internationally accepted standards of human rights;

(4) payment for such items, services, and training; and

(5) replacement batteries for existing communications equipment.

SEC. 9007.

(a) IN GENERAL.—The transportation of humanitarian assistance on or after the date of enactment of this Act which, before such date, was specifically authorized by law to be provided to the Nicaraguan Resistance, or which is authorized to be provided by section 9006, shall be arranged—

(1) in the case of the forces of the Nicaraguan resistance outside Nicaragua solely by the Agency for International development; and

(2) in the case of the forces of the Nicaraguan resistance in Nicaragua, solely by the Agency for International Development, acting through the Nicaraguan Resistance, the Pan American Development Foundation, or a similar nongovernmental organization, consistent with the provisions of the Sapoa Agreement and any subsequent agreement between the parties to the armed conflict in Nicaragua.

(b) PROHIBITION ON MIXED LOADS.—Transportation of any military assistance, or of any assistance other than that specified in 9006(b), is prohibited.

SEC. 9008. MEDICAL ASSISTANCE.

There are hereby transferred to the Administrator of the Agency for International Development from unobligated funds from appropriations accounts specified in section 9011 $5,000,000, to be used only for the provision of medical assistance for the civilian victims of the Nicaraguan civil strife to be transported and administered by the Catholic Church in Nicaragua.

SEC. 9009. UNITED STATES POLICY CONCERNING ECONOMIC ASSISTANCE FOR CENTRAL AMERICA.

As part of an effort to promote democracy and address on a long-term basis the economic causes of regional and political instability in Central America—

(1) in recognition of the recommendations of groups such as the National Bipartisan Commission on Central America, the Inter-American Dialogue, and the Sanford Commission,

(2) to assist in the implementation of these economic plans and to encourage other countries in other parts of the world to join in extending assistance to Central America,

(3) and in the context of an agreement to end military conflict in the region,

the Congress encourages the President to submit proposals for bilateral and multilateral action—

(A) to provide additional economic assistance to the democratic countries of Central America to promote economic stability, expand educational opportunity, foster progress in human rights, bolster democratic institutions, and strengthen institutions of justice;

(B) to facilitate the ability of Central American economies to grow through the development of their infrastructure, expansion of exports, and the strengthening of increased investment opportunities;

(C) to provide a more realistic plan to assist Central American countries in managing their foreign debt; and

(D) to develop these initiatives in concert with Western Europe, Japan, and other democratic allies.

SEC. 9010. ECONOMIC INCENTIVES FOR DEMOCRACY IN NICARAGUA SIMILAR TO THOSE AVAILABLE TO CENTRAL AMERICAN DEMOCRACIES.

(a) CONDITIONS ON TERMINATION OF TRADE EMBARGO AND PROVISION OF RELOCATION ASSISTANCE.—(1) If the Government of Nicaragua and the Nicaraguan Resistance sign a comprehensive final agreement to provide for peace and democracy in Nicaragua, then—

(A) the President shall terminate the trade embargo imposed against Nicaragua by Executive Order 12513 of May 1, 1985; and

(B) there shall be transferred to the President from unobligated funds from the appropriations accounts specified in section 9011 $10,000,000, to remain available for a period of twelve months after the signing of the agreement, to provide assistance for the relocation in Nicaragua and the reintegration into Nicaraguan civil society of members of the Nicaraguan Resistance, and the Nicaraguans outside Nicaragua displaced by the conflict.

(2) Nothing in this section shall be construed to limit the authority of the President under the International Emergency Economic Power Act.

(b) TRADE BENEFITS—On or after the date which is 180 days after the date of signing of the agreement described in subsection (a), if the President certifies to the Congress that the Government of Nicaragua is continuing to comply with that agreement, then the President may, notwithstanding any other provision of law—

(1) designate Nicaragua a beneficiary country for purposes of proposals referred to in section 9009 and for purposes of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.);

(2) designate Nicaragua a beneficiary developing country for purposes of title V of the Trade Act of 1974 (relating to the generalized system of preferences); and

(3) authorize loan assistance to Nicaragua under the Export-Impact Bank Act of 1945.

(c) INTERPRETATION.—Authority granted by subsections (a) and (b) shall be in addition to, and shall not be construed to limit, authority otherwise available to the President by law.

SEC. 9011. AVAILABLE APPROPRIATIONS ACCOUNTS.

The appropriations accounts referred to in sections 9003(b), 9006, 9008, and 9010(a)(1)(B) are non-ammunition Procurement accounts in any of the following:

(1) the Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190);

(2) the Department of Defense Appropriations Act, 1987, as contained in section 101(c) of the further continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591); and

(3) the Department of Defense Appropriations Act, 1988, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1988 (Public Law 100-202).

SEC. 9012. PROHIBITION ON THE USE OF CERTAIN FUNDS.

Except as provided in this title, no funds available to any agency or entity of the United States Government under this title may be obligated or expended pursuant to section 502(a)(2) of the National Security Act of 1947 for the purpose of providing funds, material, or other assistance to the Nicaraguan Resistance to support military or paramilitary operations in Nicaragua.

SEC. 9013. CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTIONS.

(a) DEFINITIONS.—For purpose of this section—

(1) the term "joint resolution" means, except as otherwise provided, only a joint resolution or bill, described in Section 4002(5) which originated in the

House of Representatives and is received in the Senate.

(2) the term "session days" means days on which the Senate is in session.

(b) Referral of Joint Resolution.—A joint resolution referred in the Senate shall be referred to the Committee on Foreign Relations of the Senate.

(c) Committee Action.—(1) If the Committee on Foreign Relations has not reported such joint resolution (or an identical joint resolution) at the end of 3 session days after its introduction, such Committee shall be discharged from further consideration of such joint resolution, and such joint resolution shall be placed on the appropriate calendar of the Senate.

(2) After the Committee on Foreign Relations reports or is discharged from a joint resolution, no other joint resolution with respect to the same matter may be reported by or be discharged from such Committee while the first joint resolution is before the Senate (including remaining on the calendar), a committee of conference, or the President.

(d) Floor Action.—(1)(A) When the Committee on Foreign Relations has reported, or has been discharged under subsection (c) from further consideration of such joint resolution, notwithstanding any rule or precedent of the Senate, including Rule 22, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for the Majority Leader, after consultation with the Minority Leader, to move to proceed to the consideration of the joint resolution and, except as provided in paragraph (2) of this subsection (insofar as it relates to germaneness and relevancy of amendments), all points of order against the joint resolution and consideration of the joint resolution are waived. The motion is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall be in order, except that such motion may not be entered for future disposition. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate, to the exclusion of all other business, until disposed of.

(2)(A) Consideration in the Senate of the joint resolution, and all amendments and debatable motions in connection therewith, shall be limited to not more than 10 hours, which, except as otherwise provided in this section, shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader, or by their designees. The Majority Leader or the Minority Leader or their designees may, from the time under their control on the joint resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(B)(i) Subject to subparagraph (ii), only amendments which are germane and relevant to the joint resolution are in order. Debate on any amendment to the joint resolution shall be limited to 2 hours, except that debate on any amendment to an amendment shall be limited to 1 hour. The time of debate for each amendment shall be equally divided between, and controlled by, the mover of the amendment and the manager of the joint resolution, except that in the event the manager is in favor of any such amendment, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

(ii) It shall be in order for the Majority Leader or the Minority Leader to offer one amendment to strike out the text of the House originated measure and insert in lieu thereof the following text: "That the Congress hereby authorizes the President to transport to the Nicaraguan Resistance all previously appropriated assistance held in title by the Nicaraguan Resistance and provides, if requested, the authority for the interchangeability of the assistance with certain equipment and (b) the transportation of humanitarian and military assistance in the same transportation system.

(C) A motion to postpone the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is in order, except that such motion may not be entered for future disposition, and debate on such motion shall be limited to 1 hour.

(3) Whenever all the time for debate on a joint resolution has been used or yielded back, no further amendments may be proposed, and the vote on the adoption of the joint resolution shall occur, except that a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate may occur immediately before such vote.

(4) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate to the procedure relating to a joint resolution shall be limited to one-half hour of debate, equally divided between, and controlled by, the Senator making the appeal and the manager of the joint resolution, except that in the event the manager is in favor of any such appeal, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

(c) RESOLUTION OF DIFFERENCES BETWEEN THE HOUSE AND THE SENATE.—(1)(A) The time for debate in a House of Congress on all motions required for the disposition of amendments between the Houses shall not exceed 2 hours, equally divided between, and controlled by, the mover of the motion and the manager of the joint resolution at each stage of the proceedings between the two Houses, except that in the event the manager is in favor of any such motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee. In the case of any disagreement between the two Houses of Congress with respect to a joint resolution which is not resolved, any

Member of Congress may make any motion or motions referred to in this subparagraph within 2 session days after action by the second House or before the appointment of conferees, whichever comes first. In the event the conferees are unable to agree within 72 hours after the second House is notified that the first House has agreed to conference, they shall report back to their respective House in disagreement.

(B) Notwithstanding any rule in either House of Congress concerning the printing of conference reports in the Congressional Record or concerning any delay in the consideration of such reports, such report, including a report filed or returned in disagreement, shall be acted on in the House of Representatives and the Senate not later than 2 session days after the first House files the report or, in the case of the Senate acting first, the report is first made available on the desks of the Senators. Debate in a House of Congress on a conference report or a report filed or returned in disagreement on any such joint resolution shall be limited to 3 hours, equally divided between and controlled by, the Majority Leader and the Minority Leader, or their designees.

(2) If a joint resolution is vetoed by the President, the time for debate in consideration of the veto message on such measure shall be limited to 6 hours in each House of Congress, equally divided between, and controlled by, the Majority Leader and the Minority Leader, or their designees.

(f) CONGRESSIONAL RULEMAKING POWERS.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, (insofar as it applies to that House), but applicable only with respect to the procedure to be followed in that House in the case of legislation described in this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 9014. ACCOUNTABILITY STANDARDS, PROCEDURES, AND CONTROL.

In implementing this title, the Agency for International Development, and any other agency of the United States Government authorized to carry out activities under this title, shall adopt the standards, procedures, and controls for the accountability of funds comparable to those applicable with respect to the assistance for the Nicaraguan resistance provided under Section III of the Joint Resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202). Any changes in such standards, procedures and controls shall be developed and adopted in consultation with the Committees on Intelligence and Foreign Relations pursuant to (b).

(b) CONGRESSIONAL OVERSIGHT.—Oversight within the House of Representatives and the Senate with respect to activities under this title shall be—

(1) with respect to nonlethal assistance, within the jurisdiction of the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate; and

(2) with respect to lethal assistance, the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(c) DEFINITION.—For purposes of subsection (a), the term "intelligence committees of the Congress" refers to the Permanent Select Committee on Intelligence of the House of Represenatives and the Select Committee on Intelligence of the Senate.

(d) The provisions of the Act of April 1, 1978 (Public Law 100-276) contained in subsections 4 (b), (d), (e) of section 4 and section 5 shall apply to the provision of assistance under this title, except that section 4(d) shall not apply to the Intelligence Committee.

(e) AID ADMINISTRATIVE EXPENSES.—There shall be transferred from unobligated funds from appropriations accounts specified in section 9011 not to exceed $4,000,000 to "Operating Expenses of the Agency for International Development" to meet the necessary administrative expenses to carry out this title.

III

APPENDIX 13

100TH CONGRESS
1ST SESSION

S. RES. 31

Expressing the sense of the Senate with respect to the situation in Afghanistan.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 1987

Mr. DOLE (for himself, Mr. HUMPHREY, Mr. MOYNIHAN, Mr. BURDICK, Mr. KASTEN, Mr. METZENBAUM Mr. BYRD, Mr. TRIBLE, Mr. THURMOND, Mr. HELMS, Mr. ROCKEFELLER, Mr. BENTSEN, Mr. ZORINSKY, and Mr. HECHT) submitted the following resolution; which was considered and agreed to

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RESOLUTION

Expressing the sense of the Senate with respect to the situation in Afghanistan.

Whereas December 27, 1986, marked the seventh anniversary of the Soviet invasion of Afghanistan;

Whereas the Soviet occupation has been characterized by extreme brutality and a campaign of indiscriminate violence that has taken the lives of an estimated 1 million Afghans, and displaced more than 4 million others;

Whereas the Special Rapporteur of the United Nations Commission on Human Rights, in his November 5, 1985, report documented examples of a barbaric Soviet military campaign against civilians, including attacks on women and children, and in a subsequent report of February 14, 1986, found the situation unchanged and concluded that the "only solution to the human rights situation in Afghanistan is the withdrawal of the foreign troops";

Whereas the Soviet invasion was a major factor in the postponement of consideration by the Senate of the SALT II Treaty of 1979, and the presence of Soviet troops in Afghanistan today continues to adversely affect the prospects for the long-term improvement of the United States-Soviet bilateral relationship in general;

Whereas the Soviet leadership appears to be engaged in a cynical and hypocritical public relations campaign aimed at portraying an ongoing staged withdrawal of Soviet troops from Afghanistan in the apparent belief that words will substitute for genuine action in shaping world opinion;

Whereas the offer by the Soviet puppet regime in Kabul for a cease-fire and amnesty in the name of "national reconciliation" is a transparent attempt to isolate the democratic resistance (the mujaheddin), confuse the populace and accomplish the surrender of the democratic resistance while the Soviet military occupation continues unabated; and

Whereas the Congress condemned Soviet policy toward and behavior in Afghanistan in Public Law 99–399, calling for appropriate provision of material support to the people of Afghanistan, so long as the Soviet military occupation continues: Now, therefore, be it

Resolved, That the Senate hereby—

(1) renews its condemnation of the continued Soviet invasion and occupation of the sovereign state of Afghanistan, against the will of the Afghan people, an activity which violates all standards of conduct be-

fitting a responsible nation, which contravenes all recognized principles of international law, and which has been reflected in seven United Nations resolutions of condemnation;

(2) finds that recent Soviet representations concerning withdrawal of Soviet troops have been indisputably demonstrated to be a sham, are a cynical and calculated campaign of disinformation, and do not reflect genuine reductions in the Soviet occupation force, which continues to stand at an estimated 120,000 troops inside Afghanistan, with 30,000 more positioned in contiguous areas of the Soviet Union, available for use against the Afghan population;

(3) finds that recent offers of a ceasefire, amnesty, and a government of national reconciliation advanced by the Soviet puppet regime in Kabul fail to provide the essential framework for a settlement, undermine the prospects for genuine progress, and should be spurned by the Afghan resistance so long as Soviet troops continue to occupy Afghanistan;

(4) believes that the only acceptable formula for a settlement of the Afghan situation is one which results in a government genuinely representative of the Afghan people, outlines a definite timetable for the complete withdrawal of Soviet troops in the near

future, and provides for the return of refugees in safety and dignity;

(5) renews its commitment, which was begun within weeks of the Soviet invasion of Afghanistan in December 1979 when the United States government began to supply light infantry weapons to Afghan freedom fighters, fact made public by the White House on February 15, 1980, to support the people of Afghanistan through the provision of appropriate material support;

(6) urges the Secretary of State to—

(A) develop continued multilateral initiatives aimed at encouraging Soviet military withdrawal, the return of an independent and nonaligned status to Afghanistan, and a peaceful political settlement acceptable to the people of Afghanistan, including provision for the return of Afghan refugees in safety and dignity;

(B) develop a vigorous public information campaign to bring the facts of the situation in Afghanistan to the attention of the world on a frequent basis;

(C) encourage the Soviet leadership and the Soviet puppet regime in Kabul to remove the barriers erected against the entry into and reporting of events in Afghanistan by journalists;

(D) make vigorous efforts to impress upon the Soviet leadership the penalty that continued military action in Afghanistan imposes upon the building of a long-term constructive relationship with the United States, because of the negative effect that Soviet policies in Afghanistan have on attitudes toward the Soviet Union among the American people and the Congress; and

(E) review United States policy with respect to the continued recognition of the Soviet puppet regime, and continued U.S. diplomatic presence in Kabul to determine whether such recognition and presence is in the interest of the United States and the people of Afghanistan;

(7) urges the Soviet Union to present, through its Afghan puppet representatives, an expeditious timetable of no more than four months, in accord with the stated position of the government of Pakistan, for the complete withdrawal of its forces at the next session of United Nations-sponsored indirect negotiations in February 1987, with representatives of Pakistan; and

(8) urges the government of Pakistan to resist the pressure of the Soviet Union to accept anything less

than such a timetable for withdrawal at those indirect United Nations-sponsored negotiations.

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III

APPENDIX 14

100TH CONGRESS
2D SESSION

S. RES. 386

To express the sense of the Senate on United States policy toward Afghanistan, especially toward the possibility of a Soviet troop withdrawal.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 29 (legislative day, FEBRUARY 15), 1988

Mr. BYRD (for himself, Mr. SIMPSON, Mr. PELL, Mr. DOLE, Mr. HUMPHREY, Mr. DECONCINI, Mr. SYMMS, Mr. DOMENICI, Mr. WALLOP, Mr. BAUCUS, Mr. DIXON, and Mr. DODD) submitted the following resolution; which was considered and agreed to

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RESOLUTION

To express the sense of the Senate on United States policy toward Afghanistan, especially toward the possibility of a Soviet troop withdrawal.

Whereas the Soviet Union invaded the sovereign territory of Afghanistan on December 27, 1979, and continues to occupy and attempt to subjugate that nation through the use of force, relying upon a puppet regime and an occupying army of an estimated 120,000 Soviet troops;

Whereas Pakistan has harbored more than 3,000,000 Afghan refugees and has endured hundreds of brutal raids across its borders by Afghan and Soviet aircraft and artillery, resulting in the deaths of hundreds of civilians;

Whereas on February 8, 1988, Soviet General Secretary Gorbachev announced that the withdrawal of Soviet troops from Afghanistan could begin on May 15, 1988, if the agreements on the settlement being negotiated between Afghanistan and Pakistan in Geneva were signed no later than March 15, 1988;

Whereas General Secretary Gorbachev also announced that the Soviet Union could complete the troop withdrawal within ten months and that it could arrange the withdrawal such that during the first phase, a relatively greater portion of the Soviet contingent could be withdrawn;

Whereas Pakistan has made it clear that it will not sign any agreements with the current Soviet puppet regime headed by Najibullah;

Whereas the Congress condemned Soviet policy toward and behavior in Afghanistan in Public Law 99–399, calling for appropriate provision of material support to the people of Afghanistan, so long as the Soviet military occupation continues; and

Whereas Public Law 100–204 declares it to be the policy of the United States to support a negotiated settlement to the Afghanistan war providing for the prompt withdrawal of all Soviet forces from Afghanistan within a time frame based solely on logistical criteria: Now, therefore, be it

Resolved, That the Senate hereby—

(1) reiterates its belief that the only acceptable formula for settlement of the Afghan situation is one which provides for the self-determination of the Afghan people and results in a government genuinely representative of the Afghan people, outlines a definite time-

table based solely on logistical criteria for the complete withdrawal of Soviet troops in the near future, and provides for the return of refugees in safety and dignity;

(2) expresses its belief that the Pakistani Government should not be put under any pressure to agree to Soviet terms for a settlement and that the future of Afghanistan should not be driven by the desire or schedule for a United States-Soviet summit;

(3) urges the President to—

(A) support strongly a political solution in Kabul acceptable to the resistance;

(B) insist in talks with the Soviet Union that all Soviet advisers be removed from Afghanistan at the same time as Soviet troop withdrawal takes place;

(C) address the issue of the future status of the nearly 400 bilateral treaties the Soviets have made with the puppet Kabul regime;

(D) address with the Soviets the deployment of Soviet troops across the Soviet-Afghan border after the completion of the withdrawal period;

(E) stand firm on the necessity for the Soviets to terminate all forms of military assistance and logistical support to the Kabul regime;

(F) address the repatriation by the Soviet Union of the more than 10,000 Afghan children who have been forcibly deported to the Soviet Union; and

(G) ensure that international assistance to the refugees continues at least until all Soviet and Soviet bloc forces have been withdrawn from Afghanistan and peace has been restored;

(4) expresses its belief that all Soviet and Soviet bloc advisers must be removed from Afghanistan during the period of troop withdrawal;

(5) expresses its support for increased United States humanitarian assistance to the Afghan people both during and following the withdrawal of Soviet and Soviet bloc forces from Afghanistan;

(6) expresses its support for a United Nations-sponsored peacekeeping force to help guarantee that Soviet forces can withdraw in an orderly way without being attacked on the way out and to help keep the peace in the major cities while an interim government organizes the nation's future; and

(7) expresses its strong belief that the Government of the United States should not cease, suspend, diminish, or otherwise restrict assistance to the Afghan resistance or take actions which might limit the ability

of the resistance to receive assistance until it is absolutely clear that the Soviets have terminated their military occupation, that they are not redeploying their forces to be inserted again, and that the majahadeen is well enough equipped to maintain its integrity during the delicate period of a transition government leading up to new elections.

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APPENDIX 15

100TH CONGRESS
1ST SESSION

S. RES. 164

Calling on the President to respond to the violations by Japan of the United States-Japan agreement on semiconductors.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 1987

Mr. WILSON (for himself, Mr. MCCAIN, Mr. MITCHELL, Mr. DANFORTH, Mr. DOMENICI, Mr. BENTSEN, Mr. BINGAMAN, Mr. WIRTH, Mr. ROCKEFELLER, Mr. BAUCUS, Mr. DURENBERGER, Mr. LEVIN, Mr. MCCLURE, Mr. GRASSLEY, Mr. WEICKER, Mr. CRANSTON, Mr. BYRD, Mr. EXON, Mr. HOLLINGS, Mr. SYMMS, Mr. GARN, Mr. BOND, Mr. MURKOWSKI, Mr. HATCH, and Mr. ROTH) submitted the following resolution; which was referred to the Committee on Finance

MARCH 18, 1987

Reported by Mr. BENTSEN, without amendment

MARCH 19 (legislative day, MARCH 17), 1987

Considered, amended, and agreed to

RESOLUTION

Calling on the President to respond to the violations by Japan of the United States-Japan agreement on semiconductors.

Whereas the maintenance of a healthy domestic semiconductor industry is essential to the development of the United States economy and the preservation of the national security of the United States;

Whereas the United States semiconductor industry is a world leader in semiconductor technology and has demonstrated its competitiveness in all markets to which it has free access;

Whereas concurrent with three antidumping cases filed against Japanese companies in 64K DRAMs, EPROMs and 256K and above DRAMs, the United States Trade Representative on July 11, 1985, initiated an investigation into Japanese dumping of semiconductors in the United States market and lack of access for United States companies to the Japanese semiconductor market pursuant to section 301(d)(2) of the Trade Act of 1974, as amended;

Whereas on September 2, 1986, the Ambassador of Japan to the United States and the United States Trade Representative signed the agreement between the Government of Japan and the Government of the United States of America concerning trade in semiconductor products which has been determined by the President to be an appropriate response to the practices of the Government of Japan with respect to trade in semiconductors, pursuant to section 301(d)(2) of the Trade Act of 1974, as amended;

Whereas in return for a Japan's pledge of increased sales in the Japanese market and avoidance of dumping in all markets, the administration waived the imposition of dumping duties in two antidumping cases and suspended action under section 301;

Whereas during the last six months, collection of substantial dumping penalties against Japanese companies have been foregone;

Whereas during the last six months dumping has continued and there has been no increase in access to the Japanese market;

Whereas these acts represent violations of a trade agreement negotiated pursuant to the provisions and authority of section 301 of the Trade Act of 1974, as amended;

Whereas the President has determined that any failure by the Government of Japan to meet the commitments and objectives of the agreement would be inconsistent with a trade agreement or an unjustifiable act that would burden or restrict United States commerce;

Whereas the faithful implementation of the commitments and objectives of the agreement is the only effective means of addressing the twin problems of access for foreign semiconductor companies to the Japanese market and the prevention of dumping of semiconductors by Japanese companies; and

Whereas the Government of Japan has failed to meet the commitments that it made in the agreement signed on September 2, 1986: Now, therefore, be it

Resolved, That it is the sense of the Senate that:

The President should immediately take all appropriate and feasible actions under section 301 of the Trade Act of 1974—

(A) to remedy and prevent further violation of the agreement by Japan;

(B) to serve as an incentive for compliance;

(C) to compensate the United States for the harm suffered on account of non-compliance by Japan; and

(D) to prevent further injury to the United States.

Such actions should serve to increase, rather than restrict, international semiconductor trade and be aimed at enforcing commitments and achieving the objectives of the agreement, both with respect to market access and the prevention of dumping in the United States and other markets;

Such actions should be focused so as to directly penalize those who have acted inconsistently with the terms of the agreement; and

Such actions may be directed at products which contain semiconductors so as to avoid any adverse effects on United States semiconductor users.

SEC. 2. (a) Since in April 1985, the Government of Japan, pursuant to Market Opening Sector Specific negotiations with the United States, agreed to permit equity participation of up to thirty-three percent by foreign firms in a new Japanese telecommunications service company;

Since that company would provide competition with Kokusai Denshin Denwa (KDD) in the provision of international telecommunications services via a fiber optics, trans-Pacific cable (from Japan to the United States through Alaska);

Since an international consortium consisting of Japanese, United States, and United Kingdom companies has been formed to compete with KDD, and to construct the trans-Pacific cable and to provide telecommunications services to Japanese, United States, and European consumers;

Since this consortium would enhance critical communications services for agencies of the United States Government such as the Department of Defense, and would create significant opportunities for the sale of United States technology and equipment for fiber optic cable and other project components;

Since recent action by the Japanese Ministry of Post and Telecommunications indicate that Japan may not permit thirty-three percent foreign equity participation in any consortium formed to compete with KDD, but instead may support only a three percent foreign equity participation;

Since such action by the Ministry of Post and Telecommunications would undercut the credibility of the MOSS process casting serious doubt on a negotiated approach to solving services trade problems with Japan;

(b) Therefore, be it declared, that the President should immediately take all appropriate actions to communicate with the Government of Japan to insure that the commitment made by Japan under the terms of the Market Opening Sector Specific (MOSS) telecommunications negotiations for thirty-three percent equity participation by foreign firms in any consortium formed to compete with KDD be fulfilled.

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APPENDIX 16

United States Senate
Office of the Majority Leader
Washington, DC 20510-7010

September 30, 1988

The Honorable Noboru Takeshita
Prime Minister of Japan
The Government of Japan
Tokyo, Japan

Dear Mr. Prime Minister:

During our meeting in Washington last January 14, I suggested that the United States and Japan undertake separate studies to assess the advantages and disadvantages of undertaking negotiations toward a free trade area agreement between our two countries. As a follow up to that discussion, I am enclosing a copy of a recently completed study conducted by the United States International Trade Commission, *Pros and Cons of Initiating Negotiations with Japan to Explore the Possibility of a U.S.-Japan Free Trade Area Agreement.* I think this is an excellent study which can provide a fruitful basis for further discussion between our two governments.

I understand that several of your Ministries have undertaken preliminary studies of this matter and would be most interested in learning of any conclusions they have or might reach.

Mr. Prime Minister, I have long been concerned about the increasingly volatile nature of the relationship between our two countries. We need to establish a better working understanding of our mutual roles and responsibilities from both the economic and security viewpoints so that we can build into the relationship a certain amount of shock-absorptive buffer which any alliance needs.

With certain caveats, the weight of argument contained in the International Trade Commission report suggests that it would be beneficial to pursue a broad-gauged economic agreement between our two countries which possibly could include, or be open to inclusion of other Pacific Rim countries.

Prior to getting to that point, however, I think further exploration of possible frameworks for such an agreement could profitably be undertaken by U.S. and Japanese officials, if such work were done over the next four to six months. That time frame would allow proposals to be in a mature enough stage for consideration by the next U.S. Administration. I would envision a completion date for an interim report to the Congress of March 1, 1989.

To that end, I propose a United States-Japanese dialogue to examine and evaluate possible frameworks for enhanced cooperation between our two countries. A framework for such a comprehensive economic relationship should address not only the traditional subjects of a free trade area agreement such as tariffs and quotas, but also cover trade in services and direct foreign investment, coordination of monetary and fiscal policies including currency exchange rate policies, domestic policies related to savings, consumption, and investment rates, government procurement policies, systems of distributing goods, anticompetitive practices and enforcement of antitrust laws, intellectual property protection, foreign development assistance and approaches to the problem of third world debt, access to research and development activities and opportunities in both public and private sectors, targeting of strategic industries, technology transfers and high technology targeting, and dispute settlement procedures.

It should also address an element traditionally not considered a part of U.S.-Japanese economic relations, mutual defense and burden-sharing. Such a framework should also be GATT consistent, should avoid harm to other countries, should not supplant ongoing sectoral bilateral negotiations or affect issue-specific negotiations, and should hold out the possibility of extension to other countries, especially those in the Pacific Rim.

It would not be the intention of this initiative to override or undercut current law embodied in the recently passed Omnibus Trade Bill, but serve as a catalyst to develop a new, less confrontational, more productive, and comprehensive approach to U.S.-Japanese economic relations.

I have long felt there has to be a better way to handle economic relations between our countries. Let us hope that together we may find a way.

I look forward to hearing from you on this matter.

Sincerely,

Robert C. Byrd

Robert C. Byrd

RCB:jeh

OFFICE OF THE PRIME MINISTER
TOKYO

October 19, 1988

Dear Senator Byrd:

Thank you for your letter of September 30, 1988, in which you proposed a dialogue to examine and evaluate possible bilateral frameworks with the aim of creating a more comprehensive Japan-U.S. economic relationship for enhanced cooperation. I am deeply impressed by your strong interest in the management of our economic relationship on a long term basis.

Since Japan and the United States have evolved into closely interdependent economies, it is in a sense inevitable that frictions and issues arise in a variety of fields. However, it will be against the interests of both of us, if our relationship, which Ambassador Mansfield calls "the most important bilateral relationship in the world bar none", is allowed to reprogress by frictions and issues which will create unnecessary volatility between us.

Based on this recognition, President Reagan and I confirmed at the meeting in Washington, D.C., last January that Japan and the United States would seek solution to individual trade issues through "cooperation and joint efforts". We have in fact attained significant results in a number of areas through "cooperation and joint efforts", and, I feel this approach has borne fruit.

Japan and the United States share the important responsibilities to deal jointly with many international economic problems. For this purpose, it is vitally important to maintain a harmonious bilateral relationship. Within my government, discussions and studies are being made with a view to further enhancing the cooperative relationship between Japan and the United States. I take your suggestion as a precious input for such discussions and studies. I would very much like to work closely with the United States Government on matters concerning the management of our economic relationship.

Cooperative relationship with the United States will continue to be my most important goal.

With best regards,

Sincerely,

Noboru Takeshita.

Noboru Takeshita
Prime Minister of Japan

The Honorable Robert C. Byrd
Office of the Majority Leader
United States Senate
Washington, D.C. 20510-7010

III

APPENDIX 17

100TH CONGRESS
2D SESSION

S. RES. 491

To express the sense of the Senate that the President establish a bicontinental dialogue on the implications of the integration of the economies of the European Communities.

IN THE SENATE OF THE UNITED STATES

OCTOBER 7 (legislative day, OCTOBER 6), 1988

Mr. HATFIELD (for Mr. ROTH) (for himself and Mr. BYRD) submitted the following resolution; which was considered and agreed to

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RESOLUTION

To express the sense of the Senate that the President establish a bicontinental dialogue on the implications of the integration of the economies of the European Communities.

Whereas the United States has a significant stake in trade and investment in the European Communities;

Whereas in 1987, our total bilateral trade with the European Communities was $145,000,000,000 and United States exports to the European Communities amounted to over $60,000,000,000 more than the United States sold to Canada and more than twice as much as the United States sold to Japan;

Whereas the European Communities are the leading purchasers of United States farm products and an important market for United States services;

Whereas direct investments of the United States in the European Communities amounts to $122,000,000,000;

Whereas the European Communities are in the process of implementing ambitious plans for integration of their internal markets which, when implemented, would create a single market of 320,000,000 people with a gross domestic product roughly equivalent to that of the United States;

Whereas the integrated market of the European Communities could create substantial new opportunities for United States exports and for United States subsidiaries in Europe by creating new jobs and more wealth in Europe and increasing European purchasing power, resulting in more sales by United States exporters and more jobs for Americans;

Whereas costs of doing business in Europe would be significantly reduced as physical and technical barriers to trade are eliminated or harmonized when this integration occurs;

Whereas this integration also poses risks to United States trade and investment if, instead of creating new opportunities, this integration deteriorates into a new form of protectionism, what some have referred to as "fortress Europe";

Whereas to help prevent such a deterioration, it is critically important that the next Administration encourage an open discussion between leaders in the United States and Europe of the plans of the European Communities for integration;

Whereas full and timely transparency concerning plans of the European Communities on integration is essential for maintaining mutually supportive trade and investment relations;

Whereas the 1990's are likely to be not only a very important, but also potentially a very stressful, period for United States-European Communities relations;

Whereas the uncertainties of the integration of the European Communities may add to the challenges posed in the military area, as we seek to promote more burden-sharing within the North Atlantic Treaty Organization;

Whereas our clear national interest is to meet these new challenges constructively, anticipating problems and seeking to resolve them in a timely manner, so that our alliance remains strong; and

Whereas an active bicontinental dialogue on the implications of the integration of the European Communities for the United States will help assure that integration is mutually beneficial to the United States and Europe and will help us to maintain strong and positive bilateral relations in the 1990's and beyond: Now, therefore, be it

Resolved, That the next Administration should establish a bicontinental dialogue that includes representatives of the Administration, Congress, the private sector, and their counterparts in the European Communities to discuss the implications of the integration of the European Communities for United States trade and investment. In this dialogue, the United States should seek to obtain—

(1) assurances that the European Communities will keep their commitments to market access for United States products whether civilian or military, agricultural, or industrial;

(2) assurances that the integration of the European Communities is consistent with our efforts to strengthen multilateral trade rules in the Uruguay

Round of trade negotiations, particularly in the areas of trade in services, investment, and protection of intellectual property rights; and

(3) assurances that United States companies with subsidiaries in Europe have the same status as firms of the European Communities under any new directives of the European Communities and that new investment by United States firms in the European Communities can take place on a nondiscriminatory basis.

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APPENDIX 18

THE WHITE HOUSE,
Washington, October 10, 1986.

Hon. BARRY GOLDWATER,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As I meet this week with General Secretary Gorbachev in Reykjavik, Iceland, I believe it is crucial that the Congress join with me in forging a strong bipartisan consensus on a nuclear testin policy that promotes our national security interests and advances long-standing U.S. arms control objectives.

As you are well aware, the Senate and House versions of the National Defense Authorization Act for Fiscal Year 1987 contain different amendments on the nuclear testing issue. The Senate bill includes non-binding language urging me, at the earliest possible date, to request advice and consent of the Senate (if necessary, with a reservation on the subject of verification) to the Threshold Test Ban and Peaceful Nuclear Explosions Treaties (TTBT/PNET) and to propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban (CTB) treaty. The House bill would mandate a one-year moratorium on U.S. nuclear tests above one kiloton in yield, provided the Soviet Union demonstrates matching restraint and agrees to reciprocal in-country monitoring arrangements.

I fully recognize the difficult challenge you have faced in trying to reconcile these differing positions in the conference on this bill. However, I do not believe it is in the best interests of our Nation for this dispute to remain unresolved. I think it may be helpful if I were to identify some basic principles upon which I believe we all agree and to outline my plans for discussing this issue in Reykjavik.

First, let me emphasize that I am committed to the ultimate attainment of a total ban on nuclear testing, a goal that has been endorsed by every U.S. President since President Eisenhower. I am determined to take practical steps in the near future toward this goal.

Second, I am sure we are in full accord that any treaties with the Soviet Union in the arms control area—whether they be treaties requiring reductions in deployed weapons or treaties limiting nuclear testing—must be verifiable. In recent years, advances in technology have made possible methods of improved verification in the nuclear testing area that can and should be incorporated in both pending and any future nuclear testing agreements with the Soviet Union.

Third, I believe that we fully recognize that for over four decades we have relied upon nuclear weapons for the deterrence of war and that nuclear testing has been instrumental in ensuring the safety and reliability of these weapons. A CTB would necessarily require a completely different approach to meeting our crucial interests in the areas of nuclear weapons safety and reliability—interests that will remain vital as long as the United States continues to depend on the threat of nuclear retaliation to deter aggression. Thus how one transitions to a total test ban regime is no less critical a concern than verification or any other national security issue related to an eventual implementation of a CTB.

With these principles in mind, I am prepared to take two important steps toward limiting nuclear testing. First, I intend to inform General Secretary Gorbachev in Reykjavik that as a first order of business for the 100th Congress, if the Soviet Union will, prior to the initiation of ratification proceedings in the Senate next year, agree to essential TTBT/PNET verification procedures which could be submitted to the Senate for its consideration in the form of a protocol or other appropriate codicil, I will request the advice and consent of the Senate to ratification of the TTB and PNE treaties. However, if the Soviet Union fails to agree to the required package of essential procedures prior to the convening of the 100th Congress, I will still make ratification of these treaties a first order of business for the Congress, with an appropriate reservation to the treaties that would ensure they would not take effect until they are effectively verifiable. I will work with the Senate in drafting this reservation.

Second, I intend to inform the General Secretary in Reykjavik that, once our verification concerns have been satisfied and the treaties have been ratified, I will propose that the United States and the Soviet Union immediately engage in negotiations on ways to implement a step-by-step parallel program—in association with a program to reduce and ultimately eliminate all nuclear weapons—of limiting and ultimately ending nuclear testing. These steps we can take in the near future—steps which will show the world that the United States is moving forward.

I believe that the approach outlined in this letter is consistent with the broad purposes and objectives of the Congress with respect to limiting nuclear testing. I hope that this communication will prove constructive in assisting you to reach final agreement on a Fiscal Year 1987 defense authorization bill and will provide a foundation for a bipartisan consensus on this important policy issue.

Sincerely,

Ronald Reagan

APPENDIX 19

TREATY INTERPRETATION

Mr. DOLE. Mr. President, I would also like to include in the Record President Reagan's message to the Senate on the ratification of the INF Treaty and his views on the ABM question.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

To the Senate of the United States:

I was gratified the United States Senate gave its advice and consent to the ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate- and Shorter-Range Missiles (INF Treaty). It was my honor to exchange instruments of ratification on June 1 in Moscow, and the Treaty has now entered into force.

During the past 4 months, the Senate has performed its constitutional duties with respect to the advice and consent to this Treaty in an exceptionally serious and diligent manner. On the Administration's part, we spared no effort to respond to the Senate's needs, and to do our best to ensure that the Senate had all the information it needed to carry out its constitutional responsibilities. Administration witnesses appeared in more than 70 formal hearings and many more informal briefings; we provided detailed written answers to over 1,300 questions for the record from the Committees and individual Senators; and we provided access to the negotiating record of the Treaty, comprising 31 bound volumes.

In short, I believe the Executive branch and the Senate took their responsibilities very seriously and made every effort to work together to fulfill them in the common interest of advancing the national security of the United States and our Allies and friends. The Treaty will bear witness to the sincerity and diligence of those in the Executive Branch and the Senate who have taken part in this effort.

As noted in my statement issued on May 27, the date of final Senate action, one provision of the Resolution to Ratification adopted by the Senate causes me serious concern.

The Senate condition relating to the Treaty Clauses of the Constitution apparently seeks to alter the law of treaty interpretation. The accompanying report of the Committee on Foreign Relations accords primacy, second only to the Treaty text, to all Executive branch statements to the Senate above all other sources which international forums or even U.S. courts would consider in interpreting treaties. It subordinates fundamental and essential treaty interpretative sources such as the treaty parties' intent, the treaty negotiating record and the parties' subsequent practices.

Treaties are agreements between sovereign states and must be interpreted in accordance with accepted principles of international law and United States Supreme Court jurisprudence. As a practical matter, the Senate condition only can work against the interests of the United States by creating situations in which a treaty has one meaning under international law and another under domestic law. Unilateral restrictions on the United States should be avoided, especially in a treaty affecting vital national security interests. With respect to U.S. law, the President must respect the mutual understandings reached with the Senate during the advice and consent process. But Executive statements should be given binding weight only when they were authoritatively communicated to the Senate by the Executive and were part of the basis on which the Senate granted its advice and consent to ratification. This is in accordance with the legal standards applied by our courts in determining legislative intent. I commend the thoughtful statements made during the Senate debate by Senators Specter, Roth, Wilson, and others which amplify these concerns.

This Administration does not take the position that the Executive branch can disregard authoritative Executive statements to the Senate, and we have no intention of changing the interpretation of the INF Treaty which was presented to the Senate. On the contrary, this Administration has made it clear that it will consider all such authoritative statements as having been made in good faith. Nonetheless the principles of treaty interpretation recognized and repeatedly invoked by the courts may not be limited or changed by the Senate alone, and those principles will govern any future disputes over interpretation of this Treaty. As Senator Lugar pointed out during the debate, the Supreme Court may well have the final judgment, which would be binding on the President and Senate alike. Accordingly, I am compelled to state that I cannot accept the proposition that a condition in a resolution to ratification can alter the allocation of rights and duties under the Constitution; nor could I, consistent with my oath of office, accept any diminution claimed to be effected by responsibilities of the Presidency.

I do not believe that any difference of views about the Senate condition will have any practical effect on the implementation of the Treaty. I believe the Executive branch and the Senate have a very good common understanding of the terms of the Treaty, and I believe that we will handle any question of interpretation that may arise in a spirit of mutual accommodation and respect. In this spirit I welcome the entry into force of the Treaty and express my hope that it will lead to even more important advances in arms reduction and the preservation of world peace and security.

RONALD REAGAN.

THE WHITE HOUSE, *June 10, 1988.*

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